

CIVIL COVER SHEET

JS-44 (Rev. 5/12 DC)

I. (a) PLAINTIFFS United States of America (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS Wells Fargo Bank, NA COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>Dist. of Colum.</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Javier M. Guzman; U.S. Attorney's Office; 555 Fourth Street, NW; Washington, DC 20530; 202-616-1761	ATTORNEYS (IF KNOWN) Bart H. Williams; Munger, Tolles & Olson LLP; 355 South Grand Avenue; 35th Floor; Los Angeles, CA 90071-1560; 213-683-9295

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY) <div style="display: flex; justify-content: space-between;"> <div style="width:48%;"> <input checked="" type="radio"/> 1 U.S. Government Plaintiff </div> <div style="width:48%;"> <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width:48%;"> <input type="radio"/> 2 U.S. Government Defendant </div> <div style="width:48%;"> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III) </div> </div>	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY! <table style="width:100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5																				
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical <div style="text-align: center;">Personal Injury Product Liability</div> <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
<input type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil			
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property <div style="text-align: center;">Damage</div> <input type="checkbox"/> 385 Property Damage <div style="text-align: center;">Product Liability</div>	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization	<input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) <i>*(If pro se, select this deck)*</i>	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) <i>*(If pro se, select this deck)*</i>	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input checked="" type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input checked="" type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Remand from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 42 U.S.C. sec. 3614; 15 U.S.C. sec. 1691e(h); Race and national origin discrimination in home mortgage lending

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$	JURY DEMAND:
		Check YES only if demanded in complaint YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	

VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
If yes, please complete related case form			

DATE: 7/12/2012	SIGNATURE OF ATTORNEY OF RECORD
-----------------	---------------------------------

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	
v.)	
)	
WELLS FARGO BANK, NA,)	
)	
)	
Defendant.)	
_____)	

COMPLAINT

The United States of America alleges:

INTRODUCTION

1. The United States brings this action against Wells Fargo Bank, NA ("Wells Fargo" or "the Bank") for discriminating against more than 34,000 African-American and Hispanic borrowers in the operation of its residential mortgage lending. The action is brought under the Fair Housing Act (FHA), 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act (ECOA), 15 U.S.C. §§ 1691-1691f, to redress the discrimination based on race and national origin that Wells Fargo engaged in from at least 2004 to 2009, during the mortgage boom.
2. As a result of Wells Fargo's policies and practices, between 2004 and 2008, approximately 4,000 qualified African-American and Hispanic wholesale borrowers, who received Wells Fargo loans through mortgage brokers, received subprime loans rather than prime loans from Wells Fargo because of their race or national origin, not based on their

creditworthiness or other objective criteria related to borrower risk. These African-American and Hispanic borrowers were placed into subprime loans, with adverse terms and conditions such as high interest rates, excessive fees, pre-payment penalties, and unavoidable future payment hikes, when similarly-qualified non-Hispanic white ("white") borrowers received prime loans. For example, between 2004 and 2008, highly qualified prime retail and wholesale applicants for Wells Fargo residential mortgage loans¹ were more than four times as likely to receive a subprime loan if they were African-American and more than three times as likely if they were Hispanic than if they were white. Conversely, during the same time period, borrowers with less favorable credit qualifications were more likely to receive prime loans if they were white than borrowers who were African-American or Hispanic.²

3. Additionally, between at least 2004 and 2009, approximately 30,000 African-American and Hispanic wholesale borrowers paid Wells Fargo higher fees and costs for their home mortgages than white borrowers because of their race or national origin, not based on their creditworthiness or other objective criteria related to borrower risk.

4. Wells Fargo was one of the largest single-family mortgage lenders in the United States between 2004 and 2009. Since 2008, Wells Fargo has been the largest residential home mortgage originator in the United States, and according to the Bank, now originates one out of every four mortgages in the country.

¹ For purposes of this paragraph, highly qualified prime applicants for Wells Fargo residential mortgage loans had the following characteristics: FICO scores equal to or greater than 680, debt-to-income ("DTI") ratios less than or equal to 45% of the loan amount, loan-to-value ("LTV") ratios less than or equal to 80% of the loan amount, and no history of bankruptcy.

² For purposes of this paragraph, Wells Fargo borrowers with less favorable credit qualifications had the following characteristics: FICO scores between 620 and 680, DTI between 45% and 55% of the loan amount, and LTV between 80 and 90% of the loan amount.

5. Between 2004 and 2009, Wells Fargo's policies allowed its loan originators both to set the loan prices charged to borrowers and to place borrowers into loan products in ways that were not connected to a borrower's creditworthiness or other objective criteria related to borrower risk. Wells Fargo made money based on the interest rates and fees it charged to borrowers and the premiums it earned from investors to whom it sold the bulk of its loans. Wells Fargo adopted loan pricing and origination policies that allowed the personnel who originated its loans both to set the loan prices charged to borrowers and to place borrowers into loan products in ways unconnected with credit risk. Wells Fargo created financial incentives for its employees and mortgage brokers by sharing increased revenues with them.

6. For example, from at least 2004 through mid-2008, Wells Fargo frequently originated short-term hybrid adjustable-rate mortgages (ARMs). These subprime loan products typically featured a relatively low nominal interest rate, sometimes called a "teaser" rate, for the first two or three years of the loan, after which the rate adjusted to a higher rate every six or twelve months. The most common types of short-term hybrid ARMs were "2/28" loans, with interest rates resetting after two years. Borrowers with 2/28 ARM loans often faced payment shock when the rate adjusted sharply upward. Wells Fargo was aware that many of these borrowers with 2/28 ARM loans qualified for more standard loans, such as 30-year fixed rate loans or less risky ARMs with more favorable rates that did not carry pre-payment penalties.

7. Wells Fargo had information about each borrower's race and national origin. Wells Fargo also knew or had reason to know based on its own internal monitoring and reporting that its policies of giving unguided discretion to its loan originators was resulting in discrimination. For example, Wells Fargo knew that its lending policies and practices encouraged the improper placement of qualified applicants into subprime rather than prime loan products and that its A-

Paper Filter, an internal system designed to ensure that all prime-eligible borrowers were referred to the Bank's prime division, was ineffective and subject to easy manipulation. Wells Fargo's internal documents reveal that senior officials were aware of the numerous tactics that subprime originators employed to keep loans in the subprime division, and that a significant percentage of borrowers were receiving subprime loans when they could have qualified for prime loans. Wells Fargo did not act to adequately compensate borrowers who were victims of discrimination nor did it take effective action to change its policies or practices to eliminate the discrimination.

8. African-American and Hispanic customers of Wells Fargo in at least 82 geographic markets across at least 36 states and the District of Columbia were victims of Wells Fargo's discriminatory practices. Approximately 3,500 of these victims resided in the Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Statistical Area ("Washington MSA").³ Additionally, the statistical analyses discussed below found approximately 4,500 victims in the Los Angeles MSA; approximately 4,100 victims in the Miami MSA; approximately 4,000 victims located in the New York MSA; approximately 3,200 in the Chicago MSA; approximately 2,100 in the San Francisco MSA; approximately 1,400 in the Atlanta MSA; approximately 1,300 in the Riverside MSA; approximately 1,170 in the Houston MSA; approximately 1,030 in the Philadelphia MSA; and approximately 1,000 in the Baltimore MSA.

9. The higher borrowing costs that Wells Fargo imposed on thousands of African-American and Hispanic families – whether paid as higher up-front fees, unfavorable loan products, pre-payment penalties, or otherwise – put increased economic burdens on those families. For the African-American and Hispanic families Wells Fargo placed in subprime loans when those same

³ All references to metropolitan statistical areas ("MSAs") are based on data released from the U.S. Census Bureau in 2005.

families could have received prime loans, the economic burdens and risks, including the increased risk of delinquency or foreclosure, were particularly high. A survey of large national lenders by the Office of the Comptroller of the Currency (OCC) reported that as of June 30, 2011, 28.1% of subprime loans nationwide are seriously delinquent or in foreclosure, compared to only 5.5% of prime loans. As of June 30, 2011, Wells Fargo's overall foreclosure rate on residential mortgage loans was 7.44%. According to Wells Fargo, the highest risk segment of this portfolio is the subprime loans originated in 2006 and 2007.

10. The United States brings this lawsuit to hold Wells Fargo accountable for its violations of law and to remedy the substantial and widespread harmful consequences of Wells Fargo's discriminatory lending policies and practices.

JURISDICTION

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345, 42 U.S.C. § 3614, and 15 U.S.C. § 1691e(h). Venue is appropriate pursuant to 28 U.S.C. § 1391.

PARTIES

12. Wells Fargo is a wholly owned subsidiary of Wells Fargo & Company, one of the nation's largest bank holding companies. Wells Fargo, its principal subsidiary, is a national banking association headquartered in Sioux Falls, South Dakota, with its principal place of business in California. Wells Fargo previously was subject to the regulatory authority of the OCC. As of July 21, 2011, Wells Fargo is subject to the regulatory authority of the OCC and the Consumer Financial Protection Bureau (CFPB).

13. Wells Fargo engages in business typical of a financial depository and lending institution, including extending credit and making loans for the purchase of dwellings, and making loans secured by residential real estate. Wells Fargo offers residential home mortgages to borrowers

through its Wells Fargo Home Mortgage division. Wells Fargo Home Mortgage was a separately owned subsidiary of Wells Fargo & Company until May 5, 2004, when it was merged into Wells Fargo Bank, NA. From 2004 to 2006, Wells Fargo Home Mortgage reported total net earnings of \$13.5 billion.

14. By the fourth quarter of 2004, Wells Fargo was one of the nation's top ten originators of subprime home mortgage loans. In 2006, Wells Fargo originated approximately \$74.2 billion in subprime loans, more than any other lender in the nation. Wells Fargo sometimes referred to its higher-cost lending as "nonprime," rather than "subprime."

15. Wells Fargo is and has been a "creditor" within the meaning of section 702(e) of ECOA, 15 U.S.C. § 1691a(e), and has engaged in "residential real estate-related transactions" within the meaning of section 805 of the FHA, 42 U.S.C. § 3605. Accordingly, Wells Fargo is subject to federal laws governing fair lending, including the FHA and ECOA and their respective implementing regulations, the fair housing regulations of the Department of Housing and Urban Development, 24 C.F.R. § 100.1, *et seq.*, and Regulation B of the Consumer Financial Protection Bureau, 12 C.F.R. § 1002.1, *et seq.* The FHA and ECOA prohibit financial institutions from discriminating on the basis of, *inter alia*, race and national origin in their lending practices.

REFERRAL FROM THE OFFICE OF THE COMPTROLLER OF THE CURRENCY

16. In 2009, the OCC conducted an examination of the lending practices of Wells Fargo. As a result of that examination, the OCC determined that it had reason to believe that Wells Fargo engaged in a pattern or practice of discrimination on the basis of race or color, in violation of the FHA and ECOA. Specifically, the OCC found that there was reason to believe that Wells Fargo placed African-American applicants in the subprime mortgage lending channel in the Washington-Baltimore-Northern Virginia, DC-MD-VA-WV Combined Statistical Area

(“Washington CSA”) more frequently than similarly-situated white applicants during the period from 2004 to 2008. Additionally, the OCC found reason to believe that, after controlling for credit factors, applicants from minority census tracts (census tracts with greater than or equal to 80% non-Hispanic African-American population) in the Washington CSA were more likely to be underwritten in the subprime channel than applicants from non-minority census tracts (census tracts with greater than or equal to 80% white population).

17. Following its determination in Paragraph 16, and pursuant to 15 U.S.C. § 1691e(g), the OCC referred the matter to the United States Department of Justice on December 14, 2010.

18. Along with the parallel OCC investigation referenced above in Paragraph 16, the Department of Justice has engaged since 2009 in an extensive investigation of Wells Fargo’s lending policies, practices, and procedures, including reviewing internal Bank documents and non-public loan-level data on more than 2.7 million Wells Fargo loans originated between 2004 and 2009.

FACTUAL ALLEGATIONS

19. Between 2004 and 2009, Wells Fargo originated retail and wholesale residential home mortgage loans in numerous geographic markets in the United States, including several hundred metropolitan areas (“MSAs”) as well as the less-populated areas of each state outside of MSAs.

20. From at least 2004 to 2009, Wells Fargo originated residential mortgage loans nationwide through both a retail channel and a wholesale channel. During this time period, Wells Fargo Home Mortgage was divided into two major divisions – Retail (National Consumer Lending) and Institutional Lending (“IL”), of which Wells Fargo Wholesale Lending was a business line. Within the retail channel, Wells Fargo had “Distributed Retail” and “Centralized Retail” lines. The Distributed Retail line operated as a traditional retail channel that had face-to-face contact

with customers in branch offices and originated both prime and subprime loans. The subprime division of the Distributed Retail line was known as the Mortgage Resources (MoRe) division; in early 2005, its name was changed to Home Credit Solutions (HCS). Loan officers within the Distributed Retail line were assigned to either the prime or MoRe/HCS divisions. Until the two divisions were merged in 2008, no retail loan officer originated both prime and subprime loans. The Centralized Retail line primarily handled prime loan products and operated through telephone calls and internet applications. Wells Fargo referred to both prime and subprime loan officers in its Distributed Retail and Centralized Retail lines as "Home Mortgage Consultants" or "HMCs." The same prime pricing policies applied to both the Centralized and Distributed Retail lines.

21. Through its retail and wholesale channels, Wells Fargo originated virtually every type of loan product that was available in the residential lending market. These products included: (a) traditional prime loans; (b) subprime loans, typically designed for borrowers with credit scores or other credit characteristics deemed too weak to qualify for prime loans; and (c) "Alt-A" loans, those with application requirements or payment terms less restrictive than traditional prime loan terms or requirements, such as interest-only terms, reduced documentation requirements, or balloon payments. Subsequent to origination, Wells Fargo sold or securitized for sale the bulk of the loans it originated in the secondary market, either to government-sponsored entities Fannie Mae and Freddie Mac or to private investors. On July 24, 2007, Wells Fargo announced that it would no longer originate 2/28 ARMs. On July 31, 2007, Wells Fargo ceased making subprime loans through its wholesale channel. In January 2008, the subprime sales force was integrated into the prime sales force and ceased to be a separate division within Wells Fargo Home

Mortgage. On May 16, 2008, Wells Fargo Home Mortgage closed its retail subprime loan division and originated its last subprime loan on July 9, 2008.

22. From at least 2004 through 2009, Wells Fargo applied its pricing policies on a nationwide basis, although it issued state-specific rate sheets to comply with various state requirements.

Product Placement

23. Between 2004 and 2008, Wells Fargo placed approximately 2,350 African-American and 1,650 Hispanic wholesale borrowers, as well as additional retail borrowers, into subprime loans even though white borrowers who had similar credit qualifications were placed into prime loans. As a result of being placed in a subprime loan, an African-American or Hispanic borrower paid, on average, tens of thousands of dollars more for a Wells Fargo loan, and was subject to possible pre-payment penalties, increased risk of credit problems, default, and foreclosure, and the emotional distress that accompanies such economic stress. It was Wells Fargo's business practice to allow its HMCs and mortgage brokers to place an applicant in a subprime loan even when the applicant qualified for a prime loan according to Wells Fargo's underwriting guidelines. Wells Fargo also gave its HMC's and mortgage brokers originating Wells Fargo loans discretion to request and grant exceptions to underwriting guidelines. These policies and practices resulted in the placement of African-American and Hispanic borrowers into subprime loans, when similarly-situated white borrowers were placed into prime loans, both on a nationwide basis and in dozens of geographic markets across the country where Wells Fargo originated a large volume of loans.

24. Wells Fargo's product placement monitoring efforts, while inadequate to remedy discriminatory practices against African-American and Hispanic borrowers through 2008, were sufficient to put it on notice of widespread product placement disparities based on race and

national origin. Even when Wells Fargo had reason to know there were disparities based on race and national origin, however, Wells Fargo did not act to determine the full scope of these product placement disparities, nor did it take prompt and effective action to eliminate those disparities. As described in further detail below, at all times relevant to this action, Wells Fargo had in place a system, called the "A-Paper Filter" or the "Enhanced Care Filter," whose stated purpose was ensuring that all prime-eligible borrowers were referred to the Bank's prime division. The A-Paper Filter was highly susceptible to manipulation because individual subprime loan originators were responsible for entering a borrower's information into the Filter. Further, internal Wells Fargo documents indicate that senior Wells Fargo officers were aware that the Bank's compensation structure incentivized loan originators to manipulate the data they entered into the A-Paper Filter in order to keep prime-eligible borrowers within the subprime division. Since at least 2005, senior Wells Fargo officers were aware that this manipulation was in fact occurring on a systematic basis, but failed to take appropriate corrective action.

25. From at least 2004 to 2008, Wells Fargo published underwriting guidelines that purported to establish the objective criteria an applicant had to meet in order to qualify for a particular type of loan product. These underwriting guidelines were available to Wells Fargo's underwriters, as well as its loan originators who had entered into contracts with Wells Fargo to enable them to select loan products for individual borrowers with differing credit-related characteristics. These underwriting guidelines were intended to be used, for example, to determine whether a loan applicant qualified for a prime loan product, a referral from the prime division to the subprime division, a subprime loan product, or for no Wells Fargo loan product at all.

26. Loan terms and conditions, including prices, generally are most favorable for a borrower with a prime loan product, and least favorable for a borrower with a subprime loan product,

which often included terms such as initial short-term teaser interest rates that suddenly rise to produce substantially increased and potentially unaffordable payments after two to three years, as well as substantial pre-payment penalties.

27. In mortgage lending commission structures, loan officers typically receive commissions in terms of "basis points," with one basis point being equivalent to 0.01% of the loan amount. From 2004 to 2005, Wells Fargo's subprime HMCs earned between 95 and 180 basis points, depending on loan amount and monthly origination volume, for originating a subprime loan. From 2006 to 2007, subprime HMCs earned between 75 and 175 basis points, depending on loan amount and monthly origination volume, for originating a subprime loan. From 2004 to 2007, a subprime HMC earned only 50 basis points for referring a prime-eligible borrower to the prime division. Accordingly, a subprime HMC lost between 25 and 130 basis points for referring a prime-eligible borrower to the prime division rather than originating the loan as subprime. This policy and practice created a financial incentive for HMCs to originate loans as subprime rather than prime, even when the applicant could have qualified for a prime loan.

28. Wells Fargo's cap on the amount of total compensation that a mortgage broker could receive on an individual loan also varied, in part, based on whether the loan was a subprime product or a prime product. From 2004 through 2007, total broker compensation for prime loans was capped at 4.5% of the loan amount. However, total broker compensation for subprime loans was capped at 5% of the total loan amount, giving brokers a financial incentive to originate a subprime loan where possible. The higher cap means, for example, that a broker originating a \$300,000 loan could make \$1,500 more by originating the loan as subprime rather than prime.

29. Wells Fargo's compensation structure provided a strong incentive for HMCs and wholesale mortgage brokers to originate a loan as subprime, even if the borrower could qualify

for a more favorable prime loan. This compensation structure, combined with the substantial discretion that subprime loan originators had to qualify prime-eligible borrowers for subprime loans, resulted in discrimination on the basis of race and national origin against African-American and Hispanic borrowers.

30. For each residential loan that Wells Fargo's HMCs and mortgage brokers originated from at least 2004 to 2008, information about each borrower's race and national origin was known by or available to Wells Fargo.

31. Wells Fargo's A-Paper Filter was intended to ensure that all prime-eligible borrowers were referred to the Bank's prime division, but the Filter was highly susceptible to manipulation. Until late 2004, the A-Paper Filter was a manual, handwritten checklist that underwriters were required to apply to every loan originally underwritten in the subprime division. Wells Fargo switched to an automated computerized filter for approximately 15 months, and then returned to the manual checklist format in January 2006.

32. Subprime loan originators had the ability to enter incorrect information into the A-Paper Filter to prevent a borrower from being identified as prime-eligible, thereby ensuring that the loan would remain in the subprime division. The incorrect information included, but was not limited to: (1) stating a reduced income in order to make a borrower's debt-to-income ratio ("DTI") appear higher than it actually was; (2) omitting assets to create the appearance that a borrower had no reserves; and (3) misstating the borrower's length of employment. The A-Paper Filter was not capable of identifying situations wherein information was entered into the Filter incorrectly for purposes of ensuring that a loan could remain in the subprime channel.

33. Subprime loan originators could also simply state that a borrower was unable to provide income documentation when a borrower had provided, or would have been able to provide, such

documentation; reduced documentation loans were not required to go through the A-Paper Filter process at all.

34. Subprime loan originators were not prohibited from encouraging prime-eligible borrowers to take steps that would disqualify them from receiving prime loans, including, but not limited to: (1) encouraging borrowers to forego providing income and/or asset documentation; and (2) encouraging borrowers to take out additional cash or forego making a down payment, thereby increasing the borrower's loan-to-value ratio ("LTV"). Internal Wells Fargo documents indicate that Wells Fargo senior managers were aware that loan originators were encouraging borrowers to take these and other steps adverse to borrowers' interests on a systematic basis. As a result, the A-Paper Filter was not able to identify situations wherein prime-eligible borrowers were encouraged by loan originators to take steps that would disqualify them from receiving prime loans.

35. Even with these limitations, the internal Wells Fargo audits of the A-Paper Filter identified multiple problems. These audits indicated that data inputted into the Filter was often inconsistent with the information contained in the loan files, and that many loans were originated as subprime although no subprime qualifiers existed in the loan files. The documents also indicated that Wells Fargo had marginal controls in place to meet the requirements of the A-Paper Filter policy.

36. In late 2004, when the A-Paper Filter was changed from a manual checklist to an automated system, audit reports show a significant decline in the error rate. After the automated system was implemented, the new audit system simply checked to ensure that there was a subprime qualifier present in the file, without regard to whether that subprime qualifier was accurate. Many times, the "subprime qualifier" was "stated income" or "borrower choice."

37. For each subprime loan that had a pre-payment penalty, an interest-only feature, or reduced documentation, Wells Fargo required borrowers to sign a disclosure form, called the "Product/Feature Selection Disclosure." This form purported to explain how these features impacted the borrower's financing and to explain that the borrower was receiving a subprime loan, and required the borrower to confirm that a Wells Fargo loan originator had discussed all available Wells Fargo home mortgage options with the borrower.

38. This disclosure form was not effective in preventing loan originators from steering borrowers to the subprime division. Wells Fargo subprime loan originators often failed to discuss all available loan options with borrowers before having them sign the disclosure form. Further, Wells Fargo subprime loan originators were not required to inform prime-eligible customers who received a subprime loan that they did in fact qualify for a more favorable loan. Rather, Wells Fargo required all subprime borrowers to sign the Product/Feature Selection Disclosure, without specific knowledge as to whether they were in fact prime-eligible.

39. Statistical analyses of loan data for prime and subprime wholesale loans originated by Wells Fargo for the time period of 2004 to 2008 demonstrate that, measured on a nationwide basis, the odds that an African-American borrower who obtained a wholesale loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 8.3 times as high as the odds for a white borrower. For the same time period, the odds that an African-American borrower who obtained a retail loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 5.6 times as high as the odds for a white borrower.

This demonstrates a pattern of statistically significant⁴ differences between African-American and white borrowers with respect to their product placement by Wells Fargo. These statistically significant disparities existed in numerous geographic markets across the nation as well.

40. Statistical analyses of loan data for prime and subprime wholesale loans originated by Wells Fargo for the time period of 2004 to 2008 demonstrate that, measured on a nationwide basis, the odds that a Hispanic borrower who obtained a wholesale loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 1.7 times as high as the odds for a white borrower. For the same time period, the odds that a Hispanic borrower who obtained a retail loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 2.4 times as high as the odds for a white borrower. This demonstrates a pattern of statistically significant differences between Hispanic and white borrowers with respect to their product placement by Wells Fargo. These statistically significant disparities existed in numerous geographic markets across the nation as well.

41. After controlling for major risk-based factors relevant to determining loan product placement, including credit history, LTV, and DTI, African-American and Hispanic borrowers remained more likely to receive subprime loans from 2004 to 2008 than similarly-situated whites. These disparities are statistically significant.

42. For the combined time period of 2004 to 2008, nationwide, the odds that an African-American borrower who obtained a wholesale loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 2.9 times as high as the odds for a similarly-

⁴ Statistical significance is a measure of probability that an observed outcome would not have occurred by chance. As used in this Complaint, an outcome is statistically significant if the probability that it could have occurred by chance is less than 5%.

situated white borrower, after accounting for the same factors. For the same time period, the odds that an African-American borrower who obtained a retail loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 2.0 times as high as the odds for a similarly-situated white borrower, after accounting for the same factors. These odds ratios demonstrate a pattern of statistically significant differences between African-American and white borrowers with respect to their product placement by Wells Fargo, even after accounting for objective credit qualifications.

43. For the combined time period of 2004 to 2008, nationwide, the odds that a Hispanic borrower who obtained a wholesale loan from Wells Fargo would receive a subprime loan instead of a prime loan were approximately 1.8 times as high as the odds for a similarly-situated white borrower, after accounting for the same factors. For the same time period, the odds that a Hispanic borrower would receive a subprime retail loan rather than a prime retail loan were approximately 1.3 times as high as the odds for a similarly-situated white borrower, after accounting for the same factors. These odds ratios demonstrate a pattern of statistically significant differences between Hispanic and white borrowers with respect to their product placement by Wells Fargo, even after accounting for objective credit qualifications.

44. These statistically significant disparities also existed in numerous geographic markets across the nation.⁵ In 2004, African-American wholesale borrowers had statistically significant odds ratio disparities in approximately 68% (17 of 25) of high loan-volume markets, defined for purposes of this paragraph as those MSAs and non-MSA areas in each state where Wells Fargo

⁵ The inclusion throughout this Complaint of statistical analyses for high-volume markets is intended only to provide examples of Wells Fargo's violation of lending discrimination laws. The United States' allegations that Wells Fargo violated lending discrimination laws are not limited to these high-volume markets.

made at least 300 total wholesale loans during the year, including at least 30 subprime loans to both white and African-American wholesale borrowers. Statistically significant odds ratio disparities disfavoring African-American borrowers occurred in approximately 60% (18 of 30) of these markets in 2005; approximately 77% (23 of 30) of these markets in 2006; and approximately 88% (7 of 8) of these markets in 2007. For the combined time period of 2004 to 2007, in the high-volume markets with statistically significant odds ratio disparities, the odds of an African-American borrower receiving a subprime wholesale loan in a given year were up to 8.3 times as high as the odds for a similarly-situated white borrower. There were no markets with statistically significant disparities favoring African-American wholesale borrowers over similarly-situated white borrowers. These results, when aggregated, indicate that nearly 2,350 African-American borrowers in the high loan-volume markets from 2004 to 2007 received subprime, rather than prime, wholesale loans from Wells Fargo because of their race, not because of their objective credit characteristics.

45. In 2004, Hispanic wholesale borrowers had statistically significant odds ratio disparities in approximately 38% (6 of 16) of high loan-volume markets, defined for purposes of this paragraph as those MSAs and non-MSA areas in each state where Wells Fargo made at least 300 total wholesale loans during the year, including at least 30 subprime loans to both white and Hispanic wholesale borrowers. Statistically significant odds ratio disparities disfavoring Hispanic borrowers occurred in approximately 67% (12 of 18) of these markets in 2005; approximately 71% (10 of 14) of these markets in 2006; and approximately 67% (4 of 6) of these markets in 2007. For the combined time period of 2004 to 2007, in the high-volume markets with statistically significant odds ratio disparities, the odds of a Hispanic borrower receiving a subprime wholesale loan in a given year were up to 6.1 times as high as the odds for a similarly-

situated white borrower. From 2004 to 2007, only one market had statistically significant disparities favoring Hispanic wholesale borrowers over similarly-situated white borrowers. These results, when aggregated, indicate that nearly 1,650 Hispanic borrowers in the high loan-volume markets from 2004 to 2007 received subprime, rather than prime, wholesale loans from Wells Fargo because of their national origin, not because of their objective credit characteristics.

46. These odds ratio disparities mean, for example, that for the combined time period of 2004 to 2007, Wells Fargo placed approximately 320 African-American and Hispanic wholesale borrowers in the Los Angeles MSA into subprime loans even though white borrowers in Los Angeles with similar credit risk characteristics received prime loans. For the same time period, Wells Fargo placed approximately 335 African-American and Hispanic wholesale borrowers in the Washington, DC MSA into subprime loans even though white borrowers in Washington, DC with similar credit risk characteristics received prime loans. Similarly, for the same time period, Wells Fargo placed approximately 435 African-American and Hispanic wholesale borrowers in the Chicago MSA into subprime loans even though white borrowers in Chicago with similar credit characteristics received prime loans.

47. In addition to higher direct economic costs, the victims of discrimination suffered additional consequential economic damages resulting from having a subprime loan rather than a prime loan, including possible pre-payment penalties, increased risk of credit problems, default, and foreclosure, and other damages, including emotional distress.

48. The disparate placement of both African-American and Hispanic borrowers whom Wells Fargo determined had the credit characteristics to qualify for a home mortgage loan into subprime loan products, when compared to similarly-situated white borrowers, resulted from the implementation and interaction of Wells Fargo's policies and practices that: (a) permitted Wells

Fargo subprime loan originators to place an applicant in a subprime loan product even if the applicant could qualify for a prime loan product; (b) provided a financial incentive to Wells Fargo subprime loan originators to place loan applicants in subprime loan products; (c) did not require Wells Fargo subprime loan originators to justify or document the reasons for placing an applicant in a subprime loan product even if the applicant could qualify for a prime loan product; (d) did not require Wells Fargo subprime loan originators to notify subprime loan applicants when they did in fact qualify for a more favorable loan product; and (e) failed to monitor these discretionary practices to ensure that borrowers were being placed in loan products on a nondiscriminatory basis. Wells Fargo continued to use these product placement, compensation, and discretionary underwriting policies until it exited the subprime lending business in 2008.

49. Wells Fargo's policies or practices identified in Paragraphs 23-38 were not justified by business necessity or legitimate business interests. There were less discriminatory alternatives available to Wells Fargo that would have achieved the same business goals as these policies and practices.

50. As early as 2005, Wells Fargo's senior officers had knowledge that its lending policies and practices identified in Paragraphs 23-38 resulted in the placement of prime-qualified minority applicants in subprime rather than prime loan products and that its A-Paper Filter was ineffective. For example, an internal Wells Fargo document from 2005 sent from a Wells Fargo Vice President of Retail Underwriting, National Programs to a number of senior and executive vice presidents revealed concerns about A-Paper Filter manipulation and listed various tactics that subprime originators routinely employed to keep loans in the subprime division, rather than send them to the prime channel. Another internal Wells Fargo document from 2005 concluded that loans were being originated as subprime, even though the borrowers had prime

characteristics. Nonetheless, Wells Fargo continued to implement those policies and practices and did not take effective action to change the discriminatory policies or practices to eliminate their discriminatory impact. Nor did it act to identify or compensate the individual borrowers who were victims of its discriminatory product placement policies or practices.

Wholesale Mortgage Broker Fees

51. Between 2004 and 2008, Wells Fargo charged more than 12,850 African-American wholesale borrowers higher fees and costs than white borrowers, not based on their creditworthiness or other objective criteria related to borrower risk, but because of their race. Similarly, between 2004 and 2008, Wells Fargo charged more than 17,150 Hispanic wholesale borrowers higher fees and costs than white borrowers, not based on their creditworthiness or other objective criteria related to borrower risk, but because of their national origin. It was Wells Fargo's business practice to allow its mortgage brokers who generated loan applications through its wholesale channel to vary a loan's interest rate and other fees from the price set based on a borrower's objective credit-related factors. This unguided and subjective pricing discretion resulted in African-American and Hispanic borrowers paying more than white borrowers with similar credit characteristics both on a nationwide basis and in dozens of individual geographic markets across the country where Wells Fargo originated a large volume of loans. As a result of Wells Fargo's discriminatory practices, an African-American or Hispanic borrower paid on average hundreds of dollars more for a Wells Fargo wholesale loan.

52. Wells Fargo's wholesale pricing monitoring efforts, while inadequate to remedy discriminatory practices against African-American and Hispanic borrowers through 2008, were sufficient to put it on notice of widespread pricing disparities based on race and national origin. Even when Wells Fargo had reason to know there were disparities, however, Wells Fargo did not

act to determine the full scope of these wholesale pricing disparities, nor did it take prompt and effective action to eliminate those disparities. Between at least 2004 and 2008, Wells Fargo had a policy or practice of periodically monitoring in a limited manner the pricing of wholesale home mortgage loans for discrimination based on race or national origin at the geographic market level and for some individual brokers. However, Wells Fargo's monitoring for racial and national origin disparities in its wholesale loans was inadequate. Although Wells Fargo's wholesale pricing monitoring efforts were inadequate, they were sufficient to put it on notice of widespread pricing disparities based on race and national origin. Wells Fargo did not act to determine the full scope of these wholesale pricing disparities, nor did it take prompt and effective action to eliminate those disparities.

53. From at least 2004 to 2008, Wells Fargo originated and funded residential loans of all types through its Wholesale Lending Division ("WLD"). Applications for these loans were brought to Wells Fargo by mortgage brokers throughout the United States who entered into contracts with Wells Fargo for the purpose of bringing loan applications to it for origination and funding.

54. Wells Fargo required prospective brokers to submit a document entitled "Intent to Act as a Broker" and to enter into a Broker Origination Agreement in order to be approved as a Wells Fargo broker. According to Wells Fargo, the process of obtaining and maintaining approved broker status involved its careful analysis of the broker's financial condition; experience level; operational scope and operational methodology; and thorough consideration of the broker's organization, staff, organization principals, licensing, agency standing, and regulatory approvals based upon documents and information provided by the broker.

55. Wells Fargo's brokers were required to adhere to the provisions set forth in its Wholesale Lending Broker Origination Guide, and Wells Fargo's contracts with brokers required representations and warranties that they would comply with applicable federal, state, and local laws and regulations, including fair lending requirements. Wells Fargo required its brokers to attest that all mortgage loans submitted conformed to the Bank's applicable requirements and to all of the guidelines for a particular loan program.

56. Wells Fargo authorized brokers to inform prospective borrowers of the terms and conditions under which a Wells Fargo residential loan product was available. Wells Fargo did not require the mortgage brokers to inform a prospective borrower of all available loan products for which he or she qualified, of the lowest interest rates and fees for a specific loan product, or of specific loan products best designed to serve the interests expressed by the applicant. Upon receipt of a completed loan application from a broker, Wells Fargo evaluated the proposed loan using its underwriting guidelines and determined whether to originate and fund the loan.

57. Wells Fargo was directly and extensively involved in setting the complete, final terms and conditions of wholesale loan applications generated by mortgage brokers that Wells Fargo approved and originated. At the time of originating each loan, Wells Fargo was fully informed of the loan terms and conditions, including the fees it passed along to brokers, and it incorporated those terms and conditions into the wholesale loans it originated.

58. From at least 2004 through 2009, Wells Fargo's policies and practices established a two-step process for the pricing of wholesale loans that it originated. The first step was to establish a base or par rate for a particular type of loan for an applicant with specified credit risk characteristics. In this step, Wells Fargo accounted for numerous objective credit-related characteristics of applicants by setting a variety of prices for each of the different loan products

that reflected its assessment of individual applicant creditworthiness, as well as the current market rate of interest and price it could obtain for the sale of such a loan from investors.

59. From at least 2004 to 2009, Wells Fargo set terms and conditions, including interest rates, for its various home mortgage loan products available through its wholesale loan channel. Wells Fargo accounted for numerous applicant credit risk characteristics by setting a range of prices for each of the different loan products it offered that reflected applicant creditworthiness. It communicated these loan product prices to its brokers through rate sheets. Wells Fargo made prime rate sheets available to brokers on a daily basis via email or the "Brokers First" website that communicated the effective date, time, and product pricing that was released with a specific price change. The rate sheets also established price caps that limited the level of broker compensation. According to Wells Fargo's Wholesale Pricing Policy, price changes were initiated by Wells Fargo's Capital Markets Group as a result of rate movements or by the Wholesale Pricing Group to adjust profit expectations or alter competitive position. Wells Fargo distributed its Traditional Nonprime rate sheets once a week.

60. Wells Fargo's second step of pricing wholesale loans permitted mortgage brokers to exercise subjective, unguided discretion in setting the amount of broker fees charged to individual borrowers, unrelated to an applicant's credit risk characteristics. Mortgage brokers who supplied Wells Fargo with loan applications that Wells Fargo funded were compensated in two ways. One was through a yield spread premium ("YSP"), an amount paid by Wells Fargo to the brokers based on the extent to which the interest rate charged on a loan exceeded the base or par rate for that loan to a borrower with particular credit risk characteristics fixed by Wells Fargo and listed on its rate sheets. The YSP is derived from the present dollar value of the difference between the credit risk-determined par interest rate a wholesale lender such as Wells Fargo

would have accepted on a particular loan and the interest rate a mortgage broker actually obtained for Wells Fargo. Wells Fargo benefitted financially from the loans it made at interest rates above the par rates set by its rate sheets. For those loans that it sold or securitized, higher interest rates meant sales at prices higher than it otherwise would have obtained; for loans it retained, higher interest rates meant more interest income over time. The second way brokers were compensated was through direct fees and origination fees charged to the borrower. Wells Fargo directed its closing agents to pay direct fees to brokers out of borrowers' funds at the loan closing. Taken together, these two forms of compensation are referred to in this Complaint as "total broker fees."

61. Wells Fargo had written policies placing a ceiling on total broker fees. From 2004 through 2009, the maximum total broker fee that a broker could earn from originating a prime Wells Fargo loan was 4.5% of the total loan amount. From 2004 through 2007, the maximum total broker fee that a broker could earn from originating a subprime Wells Fargo loan was 5.0% of the total loan amount. Wells Fargo stopped originating subprime loans from its wholesale channel in July 2007. Wells Fargo also permitted pricing exceptions for reasons wholly unrelated to creditworthiness, such as customer service issues or competitive reasons, and required approval based on the amount of the exception (e.g., exceptions over \$2,000 required Vice President approval).

62. According to Wells Fargo's stated policy, screening for broker compensation caps was automated within the origination system to prevent users from generating closing documents if broker compensation exceeded the caps. Wells Fargo maintained this pricing policy through at least April 2009.

63. Other than these caps, Wells Fargo did not establish any objective criteria, or provide guidelines, instructions, or procedures to be followed by brokers (a) in setting the amount of direct fees they should charge or (b) in determining to charge an interest rate for a loan above that set by its rate sheet, which in turn determined the amount of YSP that Wells Fargo would pay the broker. Mortgage brokers exercised this pricing discretion that Wells Fargo gave them, untethered to any objective credit characteristics, on every loan they brought to Wells Fargo for origination and funding. Wells Fargo affirmed or ratified these discretionary pricing decisions for all the brokered loans it originated and funded.

64. From 2004 to 2009, Wells Fargo was fully informed of all broker fees to be charged with respect to each individual residential loan application presented to it. Wells Fargo also required brokers to disclose to the borrower all compensation and all other fees expected to be received by the broker in connection with the mortgage loan. Wells Fargo required brokers to disclose their fees on the Good Faith Estimate, the HUD-1, and other disclosures as applicable. Total broker fees raised the annual percentage rate charged on a loan, and could increase the note interest rate and the total amount borrowed.

65. For each residential loan application obtained by mortgage brokers and subsequently funded by Wells Fargo, information about each borrower's race and national origin and the amount and types of broker fees paid was available to and was known by Wells Fargo. Wells Fargo was required to collect, maintain, and report data with respect to certain loan terms and borrower information for residential loans, including the race and national origin of each wholesale residential loan borrower, pursuant to HMDA. 12 U.S.C. § 2803.

66. Statistical analyses of data kept by Wells Fargo on its wholesale loans between 2004 and 2008 demonstrate statistically significant discriminatory pricing disparities in both prime and

subprime loans based on both race (African-American) and national origin (Hispanic). These disparities existed both at the national level and in numerous geographic markets across the country.

67. Measured on a nationwide basis in each year between 2004 and 2008, Wells Fargo charged African-American borrowers whom Wells Fargo determined had the credit characteristics to qualify for a home mortgage loan more in total broker fees for prime wholesale loans than white borrowers. The annual total broker fee disparities ranged up to 78 basis points, and they are statistically significant.

68. Measured on a nationwide basis in each year between 2004 and 2008, Wells Fargo charged Hispanic borrowers whom Wells Fargo determined had the credit characteristics to qualify for a home mortgage loan more in total broker fees for prime wholesale loans than white borrowers. The annual total broker fee disparities ranged up to 55 basis points, and they are statistically significant.

69. Measured on a nationwide basis in each year between 2004 and 2007, Wells Fargo charged African-American borrowers whom Wells Fargo determined had the credit characteristics to qualify for a home mortgage loan more in total broker fees for subprime wholesale loans than white borrowers. The annual total broker fee disparities ranged up to 53 basis points, and they are statistically significant.⁶

70. In approximately 86% of its high prime loan-volume markets in 2004 (18 of 21), defined for purposes of this paragraph as those MSAs and non-MSA areas in each state where Wells Fargo made more than 300 total prime wholesale loans, 30 or more such loans to African-

⁶ Due to major changes in the housing market, Wells Fargo ceased subprime wholesale lending in July 2007.

American borrowers, and 30 or more such loans to white borrowers in a given year, Wells Fargo charged African-American borrowers more in total broker fees not based on borrower risk for wholesale prime loans than white borrowers by a statistically significant amount. In 2005, approximately 79% of such markets (19 of 24); in 2006, approximately 88% of such markets (22 of 25); in 2007, approximately 84% of such markets (21 of 25); and in 2008, 100% of such markets (19 of 19) showed statistically significant total broker fee disparities disfavoring African-American prime wholesale borrowers. The disparities in total broker fees not based on borrower risk resulted in African-American borrowers in these markets paying up to 122 basis points more than white borrowers for prime wholesale loans in a given year. In all five years, there were no high loan-volume markets in which Wells Fargo charged white borrowers statistically significantly higher total broker fees for prime wholesale loans than African-American borrowers in a given year. These results, when aggregated, indicate that Wells Fargo charged more than 7,660 individually identifiable African-American borrowers in the high loan-volume markets from 2004 to 2008 higher prices of varying amounts than white borrowers for their prime wholesale loans, not based on their creditworthiness or other objective criteria related to borrower risk, but because of their race.

71. In approximately 89% of its high prime loan-volume markets in 2004 (31 of 35), defined for purposes of this paragraph as those MSAs and non-MSA areas in each state where Wells Fargo made more than 300 total prime wholesale loans, 30 or more such loans to Hispanic borrowers, and 30 or more such loans to white borrowers in a given year, Wells Fargo charged Hispanic borrowers more in total broker fees not based on borrower risk for wholesale prime loans than white borrowers by a statistically significant amount. In 2005, approximately 71% of such markets (25 of 35); in 2006, approximately 80% of such markets (28 of 35); in 2007,

approximately 89% of such markets (33 of 37); and in 2008, approximately 92% of such markets (22 of 24) showed statistically significant total broker fee disparities disfavoring Hispanic prime wholesale borrowers. The disparities in total broker fees not based on borrower risk resulted in Hispanic borrowers in these markets paying up to 99 basis points more than white borrowers for prime wholesale loans in a given year. In all five years, there were no high loan-volume markets in which Wells Fargo charged white borrowers statistically significantly higher total broker fees for prime wholesale loans than Hispanic borrowers in a given year. These results, when aggregated, indicate that Wells Fargo charged more than 17,150 individually identifiable Hispanic borrowers in the high loan-volume markets from 2004 to 2008 higher prices of varying amounts than white borrowers for their prime wholesale loans, not based on their creditworthiness or other objective criteria related to borrower risk, but because of their national origin.

72. In approximately 91% of its high subprime-loan-volume markets in 2004 (10 of 11), defined for purposes of this paragraph as those MSAs and non-MSA areas in each state where Wells Fargo made more than 300 total subprime wholesale loans, 30 or more such loans to African-American borrowers, and 30 or more such loans to white borrowers in a given year, Wells Fargo charged African-American borrowers more in total broker fees not based on borrower risk for wholesale subprime loans than white borrowers by a statistically significant amount. In 2005, approximately 88% of such markets (14 of 16); and in 2006, approximately 85% of such markets (11 of 13) showed statistically significant total broker fee disparities disfavoring African-American subprime wholesale borrowers. The disparities in total broker fees not based on borrower risk resulted in African-American borrowers in these markets paying up to an average of 83 basis points more than white borrowers for subprime wholesale loans in a

given year. In all four years, there were no high subprime-loan-volume markets in which Wells Fargo charged white borrowers statistically significantly higher total broker fees for subprime wholesale loans than African-American borrowers in a given year. These results, when aggregated, indicate that Wells Fargo charged approximately 5,190 individually identifiable African-American borrowers in the high subprime-loan-volume markets from 2004 to 2007 higher prices of varying amounts than white borrowers for their subprime wholesale loans, not based on their creditworthiness or other objective criteria related to borrower risk, but because of their race.

73. These disparities in total broker fees mean, for example, that in 2007, Wells Fargo charged the average prime wholesale customer borrowing \$300,000 about \$2,064 more in broker fees not based on borrower risk if she were African-American, and an average of about \$1,251 if she were Hispanic, than the average amount charged to a white prime wholesale customer. In specific MSAs, these disparities in total broker fees mean that in 2007 Wells Fargo charged a prime wholesale customer in the Chicago MSA borrowing \$300,000 on average about \$2,937 more in broker fees not based on borrower risk if she were African-American, and an average of about \$2,187 more if she were Hispanic, than the average amount charged to a white prime wholesale customer. Comparable average disparities in 2007 for African-American and Hispanic prime wholesale customers in the Miami MSA borrowing \$300,000 were approximately \$3,657 and \$2,538 higher, respectively, than the average amount Wells Fargo charged to a white prime wholesale customer in Miami borrowing the same amount.

74. These disparities in total broker fees also mean, for example, that in 2005, Wells Fargo charged the average subprime wholesale customer borrowing \$300,000 about \$1,212 more in broker fees not based on borrower risk if she were African-American than the average amount

charged to a white subprime wholesale customer. In specific MSAs, these disparities mean that in 2005, Wells Fargo charged an African-American subprime wholesale customer in the Los Angeles MSA borrowing \$300,000 on average about \$1,992 more in total broker fees not based on borrower risk than the average amount charged to a white subprime wholesale customer in Los Angeles. In 2005, Wells Fargo charged an African-American subprime wholesale customer in the Houston MSA borrowing \$300,000 on average about \$1,020 more in total broker fees not based on borrower risk than the average amount Wells Fargo charged to a white subprime wholesale customer in Houston borrowing the same amount.

75. In setting the terms and conditions for its wholesale loans, including interest rates, Wells Fargo accounted for individual borrowers' differences in credit risk characteristics by setting the prices shown on its rate sheets for each loan product for borrowers with specified credit qualifications. These adjustments based on credit risk characteristics were separate from and did not control for either component of the total broker fees – the interest rate deviations that Wells Fargo's policy allowed mortgage brokers to make from the par prices, which already fully accounted for borrower risk according to Wells Fargo's own standards, nor the amount of brokers' direct fees that were driven by a borrower's credit risk factors. Accordingly, the race and national origin total broker fee disparities described in Paragraphs 66-74 are not adjusted for borrowers' credit risk characteristics. Wells Fargo reviewed these broker fees and then authorized its brokers to charge them to borrowers in the loans it originated and funded.

76. The statistically significant race and national origin-based disparities in broker fees described in Paragraphs 66-74 for African-Americans and Hispanics resulted from the implementation and interaction of Wells Fargo's policies and practices that: (a) included pricing terms based on the subjective and unguided discretion of brokers in setting broker fees not based

on borrower risk in the terms and conditions of loans that Wells Fargo originated after par rates had been established by reference to credit risk characteristics; (b) created a financial incentive for brokers to charge interest rates above the par rates that Wells Fargo had set; (c) did not require mortgage brokers to justify or document the reasons for the amount of broker fees not based on borrower risk; and (d) failed to adequately monitor for and fully remedy the effects of racial and ethnic disparities in those broker fees. Broker fees specifically measure the pricing variation caused by the subjective and unguided pricing adjustments not based on borrower risk. Wells Fargo continued to use these discretionary wholesale broker fee pricing policies, to inadequately document and review the implementation of that pricing component, and to incentivize upward broker adjustments to the par interest rate at least through the end of 2008.

77. Wells Fargo's policies and practices identified in Paragraphs 51-65 were not justified by business necessity or legitimate business interests. There were less discriminatory alternatives available to Wells Fargo that would have achieved the same business goals as these policies and practices.

78. Wells Fargo had knowledge that the unguided and subjective discretion it granted to mortgage brokers in its wholesale pricing policies and practices was being exercised in a manner that discriminated against African-American and Hispanic borrowers, but continued to implement its policies and practices with that knowledge. Wells Fargo did not take effective action to change the broker fee policies and practices to eliminate fully their discriminatory impact. Wells Fargo did not act to identify or compensate any individual borrowers who were victims of its discriminatory wholesale pricing policies and practices.

FAIR HOUSING ACT AND EQUAL CREDIT OPPORTUNITY ACT VIOLATIONS

79. Wells Fargo's residential lending-related policies and practices and the policies and practices it followed in residential credit transactions as alleged herein constitute:

- a. Discrimination on the basis of race and national origin in making available, or in the terms or conditions of, residential real estate-related transactions, in violation of the FHA, 42 U.S.C. § 3605(a);
- b. Discrimination on the basis of race and national origin in the terms, conditions, or privileges of sale of a dwelling, in violation of the FHA, 42 U.S.C. § 3604(b); and
- c. Discrimination against applicants with respect to credit transactions, on the basis of race and national origin, in violation of ECOA, 15 U.S.C. § 1691(a)(1).

80. Wells Fargo's residential lending-related policies and practices as alleged herein constitute:

- a. A pattern or practice of resistance to the full enjoyment of rights secured by the FHA, as amended, 42 U.S.C. §§ 3601-3619, and ECOA, 15 U.S.C. §§ 1691-1691f; and
- b. A denial of rights granted by the FHA, as amended, to a group of persons that raises an issue of general public importance.

81. Between 2004 and 2009, tens of thousands of persons throughout the nation have been victims of Wells Fargo's pattern or practice of discrimination and denial of rights as alleged herein. They are aggrieved persons as defined in the FHA, 42 U.S.C. § 3602(i), and aggrieved applicants as defined in ECOA, 16 U.S.C. § 1691e, and have suffered damages as a result of Wells Fargo's conduct. Attachment A depicts the states where these aggrieved persons described in Paragraphs 44-45 and 70-72 were located when the discrimination occurred.

82. Wells Fargo's policies and practices, as described herein, had the purpose and the effect of discriminating on the basis of race or national origin. These policies and practices were intentional, willful, or implemented with reckless disregard for the rights of African-American and Hispanic borrowers.

RELIEF REQUESTED

WHEREFORE, the United States prays that the Court enter an ORDER that:

(1) Declares that Wells Fargo's challenged lending policies and practices constitute violations of the Fair Housing Act, 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f;

(2) Enjoins Wells Fargo, its agents, employees, and successors, and all other persons in active concert or participation with the Bank, from:

(a) Discriminating on the basis of race and national origin against any person in any aspect of its lending business practices;

(b) Discriminating on the basis of race and national origin in the terms, conditions, or privileges of the provision of services in connection with the sale of dwellings;

(c) Discriminating on the basis of race and national origin against any person with respect to any aspect of a credit transaction;

(d) Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of Wells Fargo's unlawful conduct to the position they would have been in but for the discriminatory conduct; and

(e) Failing or refusing to take such actions as may be necessary to prevent the recurrence of any such discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of Wells Fargo's unlawful practices.

(3) Awards monetary damages, including punitive damages, to all victims of Wells Fargo's discriminatory policies and practices for the injuries caused by the Bank, pursuant to 42 U.S.C. § 3614(d)(1)(B) and 15 U.S.C. § 1691e(h);

(4) Requires payment of pre-judgment interest on monetary damages to all of the victims of Wells Fargo's discriminatory policies and practices starting from the date that the discrimination occurred; and

(5) Assesses a civil penalty against Wells Fargo in an amount authorized by 42 U.S.C. § 3614(d)(1)(C), in order to vindicate the public interest.

DEMAND FOR JURY TRIAL


Plaintiff, United States of America, demands a trial by jury on all issues so triable in this matter.


The United States further prays for such additional relief as the interests of justice may require.

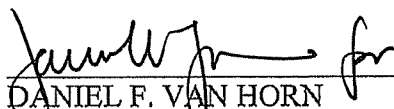
Dated: July 12, 2012

Respectfully submitted,

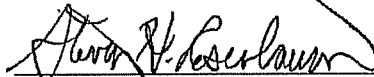
ERIC H. HOLDER, JR.
Attorney General


RONALD C. MACHEN JR.
D.C. Bar # 447889
United States Attorney
District of Columbia

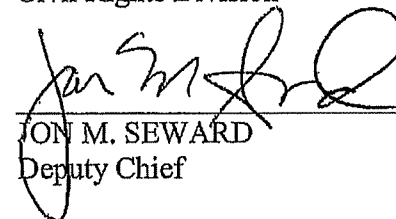

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division



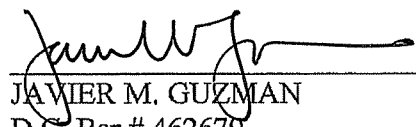
DANIEL F. VAN HORN
D.C. Bar # 924092
Acting Chief, Civil Division



STEVEN H. ROSENBAUM
D.C. Bar # 417585
Chief
Housing and Civil Enforcement Section
Civil Rights Division



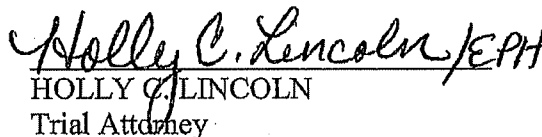
JON M. SEWARD
Deputy Chief



JAVIER M. GUZMAN
D.C. Bar # 462679
Assistant United States Attorney
555 Fourth Street, NW
Washington, DC 20530
Phone: (202) 616-1761
Fax: (202) 514-8780
Javier.Guzman2@usdoj.gov



ELIZABETH PARR HECKER
Trial Attorney



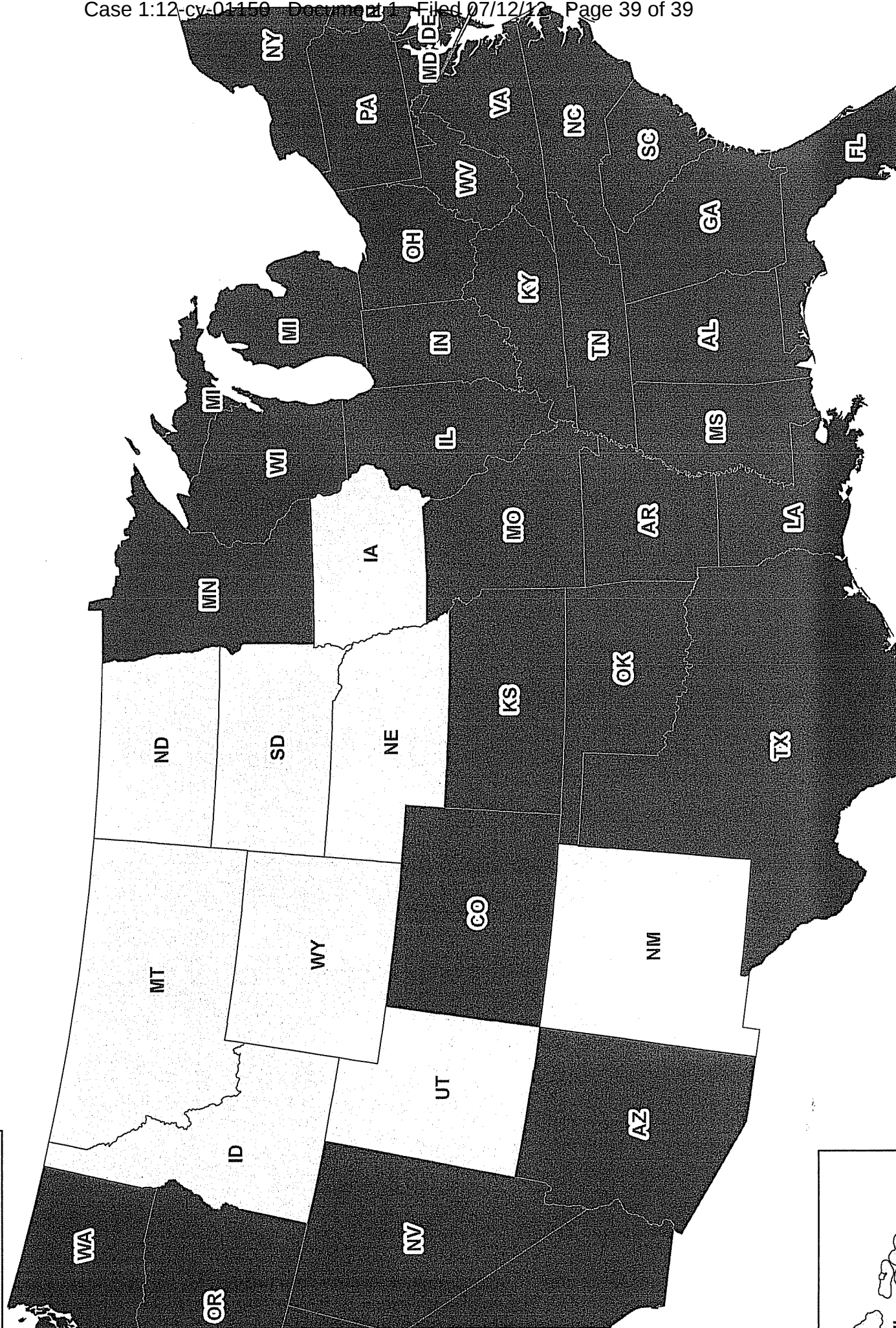
HOLLY C. LINCOLN
Trial Attorney



COTY R. MONTAG
D.C. Bar # 498357
Trial Attorney
Housing and Civil Enforcement Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue NW
Northwestern Building, 7th Floor
Washington, DC 20530
Phone: (202) 305-0122
Fax: (202) 514-1116
Coty.Montag@usdoj.gov

ATTACHMENT A

Jurisdictions With Wholesale Aggrieved Persons (36 States and the District of Columbia)



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	
WELLS FARGO BANK, NA,)	
)	
Defendant.)	
_____)	

**JOINT MOTION FOR ENTRY OF
CONSENT ORDER AND STATEMENT OF POINTS AND AUTHORITIES**

Plaintiff, United States of America, and Defendant, Wells Fargo Bank, NA (“Wells Fargo”), pursuant to Rule 7 of the Federal Rules of Civil Procedure and Local Civil Rule 7, hereby move the Court for entry of the proposed Consent Order lodged contemporaneously with this motion to resolve the United States’ civil action brought to enforce the Equal Credit Opportunity Act (ECOA), 15 U.S.C. §§ 1691-1691f, and the Fair Housing Act (FHA), 42 U.S.C. §§ 3601-3619. The United States and Wells Fargo ask that the Consent Order be entered immediately.

In support of this motion, the parties state that the United States has filed a complaint with the Court alleging violations of ECOA and FHA. Wells Fargo, by agreeing to the Consent Order, is not admitting any of the allegations. Rather, the Consent Order is entered into by the parties for the purpose of resolving disputed claims under ECOA and FHA and avoiding the expenses and risks of further litigation. The parties submit that the proposed Consent Order is fair, adequate, reasonable, and in the public interest. *See Stewart v. Rubin*, 948 F. Supp. 1077, 1986 (D.D.C. 1996) (setting forth the standard for approval of settlements).

Wherefore, for the foregoing reasons, the Court should enter the proposed Consent Order, which is attached hereto per Local Civil Rule 7(c).

Dated: July 12, 2012

Respectfully submitted,

For Plaintiff United States of America:

RONALD C. MACHEN JR.
D.C. Bar # 447889
United States Attorney
District of Columbia

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

DANIEL F. VAN HORN
D.C. Bar # 924092
Acting Chief, Civil Division

STEVEN H. ROSENBAUM
D.C. Bar # 417585
Chief
Housing and Civil Enforcement Section
Civil Rights Division
JON M. SEWARD
Deputy Chief
ELIZABETH PARR HECKER
HOLLY C. LINCOLN
Trial Attorneys

_____/s/_____
JAVIER M. GUZMAN
D.C. Bar # 462679
Assistant United States Attorney
555 Fourth Street, NW
Washington, DC 20530
Phone: (202) 616-1761
Fax: (202) 514-8780
Javier.Guzman2@usdoj.gov

_____/s/_____
COTY R. MONTAG
D.C. Bar # 498357
Trial Attorney
Housing and Civil Enforcement Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Northwestern Building, 7th Floor
Washington, DC 20530
Phone: (202) 305-0122
Fax: (202) 514-1116
Coty.Montag@usdoj.gov

For Defendant Wells Fargo Bank, NA:

_____/s/_____
BART H. WILLIAMS
Munger, Tolles & Olson LLP
355 So. Grand Avenue, 35th Floor
Los Angeles, CA 90071
Phone (213) 683-9295
Fax: (213) 687-3702
Bart.Williams@mto.com
Counsel for Wells Fargo Bank, NA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	
v.)	
)	
WELLS FARGO BANK, NA,)	
)	
)	
Defendant.)	
_____)	

CONSENT ORDER

I. INTRODUCTION

This Consent Order ("Order") resolves the claims in the United States' Complaint that, during and between 2004 and 2009, Wells Fargo Bank, NA ("Wells Fargo") engaged in a pattern or practice of discrimination on the basis of race and national origin in residential mortgage lending in violation of the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. §§ 1691-1691f, and the Fair Housing Act ("FHA"), 42 U.S.C. §§ 3601-3619.

There has been no factual finding or adjudication with respect to any matter alleged by the United States. The parties have entered into the Order to avoid the risks, expense, and burdens of litigation and to resolve voluntarily the claims in the United States' Complaint against Wells Fargo.

II. BACKGROUND

Wells Fargo was one of the largest single-family mortgage lenders in the United States between 2004 and 2009. Since 2008, Wells Fargo has been the largest residential home

mortgage originator in the United States, and now originates more than one out of every four mortgages in the country.

In 2009, Office of the Comptroller of the Currency ("OCC") examiners initiated a fair lending review of Wells Fargo's home mortgage product placement practices. As a result of that examination, the OCC determined that it had reason to believe that Wells Fargo engaged in a pattern or practice of discrimination on the basis of race or color, in violation of the FHA and ECOA. Specifically, the OCC found that, after controlling for credit factors, there was reason to believe that Wells Fargo placed African-American applicants in the subprime mortgage lending channel in the Washington-Baltimore-Northern Virginia, DC-MD-VA-WV Combined Statistical Area ("Washington CSA") more frequently than similarly-situated white applicants during the period from 2004 to 2008. Following that determination, and pursuant to 15 U.S.C. § 1691e(g), the OCC referred the matter to the Department of Justice on December 14, 2010.

In May 2009, the United States Department of Justice initiated its own FHA and ECOA investigation into Wells Fargo's home mortgage lending business practices regarding home mortgage pricing and product placement, initially in the Washington CSA and subsequently nationwide. In 2010, the United States informed Wells Fargo that a lawsuit had been authorized regarding its residential lending practices in the Washington CSA, and in 2011, the United States informed Wells Fargo that a lawsuit had been authorized regarding its national residential lending practices. The parties have engaged in good faith, arms-length negotiations that produced this Order.

In its Complaint, the United States alleges that between 2004 and 2009, Wells Fargo engaged in a pattern or practice of discrimination on the basis of race and national origin in violation of both the FHA and the ECOA. Specifically, the United States claims that between

2004 and 2007, Wells Fargo's business policies allowed the discretion to place borrowers in nonprime loan products, even where the borrower could have qualified for a prime loan product. In addition, the United States claims that Wells Fargo permitted persons originating Wells Fargo loans to earn higher overall compensation from placing a prime-qualified borrower into a nonprime loan rather than a prime loan. The United States claims that this combination of discretion and financial incentive resulted in African-American and Hispanic borrowers being placed into nonprime products at higher rates than similarly-situated white borrowers. In July 2007, Wells Fargo closed its wholesale nonprime lending division, and in May 2008, stopped originating nonprime loans from its retail division.

In addition, the United States claims that between 2004 and 2009, Wells Fargo's policies gave third party mortgage brokers that submitted loans to Wells Fargo's wholesale channel for origination the discretion to vary the interest rates, fees, and costs paid by borrowers. The United States alleges that these discretionary charges were not related to the borrower's credit risk or objective qualifications, and that the discretion resulted in African-American and Hispanic borrowers who received loans through Wells Fargo's wholesale lending channel paying higher interest rates, fees and costs than similarly-situated white borrowers. In April 2011, amendments to Regulation Z, which implements the Truth In Lending Act, became effective, and that regulation altered the manner in which brokers may receive compensation from their customers and through the lenders that might originate the loans.

III. POSITION OF WELLS FARGO

Wells Fargo asserts that throughout the period of time at issue in this proceeding and to the present, it has treated all of its customers fairly and without regard to impermissible factors such as race and national origin. Wells Fargo enters this settlement solely for the purpose of

avoiding contested litigation with the Department of Justice, and to instead devote its resources to providing fair credit services to eligible persons, and to providing important and meaningful assistance to borrowers in certain distressed U.S. real estate markets.

Wells Fargo notes that it has not been advised by the Department of Justice that the Department alleges that any employee of Wells Fargo discriminated intentionally on the basis of race or national origin. During the period in which Wells Fargo originated subprime loans, it implemented industry-leading procedures to identify subprime loan applicants who might be eligible for a prime-rate product. These procedures were applied to all subprime applicants, without regard to race, national origin or any other impermissible factor. Wells Fargo's borrower data proves that its subprime borrowers had significantly weaker credit characteristics than its prime borrowers. Further, Wells Fargo believes that an appropriate analysis of its loan data and loan-file information show no disparate impact in product placement against African-American or Hispanic borrowers.

The United States' loan pricing claim focuses on wholesale loans and arises from the fees that independent mortgage brokers charged their customers. These fees were neither set by nor payable to Wells Fargo.

No lender in the United States originates a larger number of residential mortgage loans to African-American and Hispanic borrowers than Wells Fargo. Wells Fargo not only denies that it discriminated unlawfully, but affirmatively asserts that it has treated all of its customers without regard to race or national origin, and that its business practices have promoted and achieved fairness across all borrower groups.

IV. REMEDIAL ORDER

1. Unless otherwise stated herein, the remedial provisions of the Order will be implemented within 60 days of the Effective Date of the Order and will continue throughout its

term. The Effective Date of the Order will be the date on which it is approved and entered by the Court.

A. General Nondiscrimination Injunction

2. Wells Fargo, including all of its officers, employees, agents, assignees, successors in interest, and all those in active concert or participation with any of them, is hereby enjoined from violating the antidiscrimination provisions of the FHA and the ECOA in connection with the origination of residential mortgage loans.

3. Nothing in this Order will require Wells Fargo to make unsafe or unsound loans or to require loans to be originated or priced based upon the race or national origin of the borrower or prospective borrower.

B. Lending Policies and Procedures

4. Consistent with Regulation Z, 12 C.F.R. § 1026.36(d), Wells Fargo will prohibit, for all loans secured by residential real estate originated in its name, employees and mortgage brokers¹ from receiving, directly or indirectly, overages, yield spread premiums or other compensation in an amount that is based on any of the terms or conditions of a loan secured by residential real estate, including the annual percentage rate charged to the borrower or the amount by which the interest rate varies from the par rate. This prohibition will not limit compensation that is based on the principal amount of a loan, provided the compensation is based on a fixed percentage of the principal; however, such compensation may be subject to a minimum or maximum dollar amount. This prohibition also will not limit Wells Fargo from allowing a borrower to finance, at the option of the borrower, including through principal or rate, any origination fees or costs, so long as such fees or costs do not vary based on the terms of the

¹ The term "mortgage broker" in the Order follows the definition contained in 12 C.F.R. § 1026.36(a), and includes both natural persons and organizations.

loan (other than the amount of the principal) or the borrower's decision about whether to finance such fees or costs.²

5. Wells Fargo will maintain specific standards, substantially similar to those detailed in its the May 2012 "Wells Fargo Home Mortgage Retail Pricing Policy," for the assessment of all origination fees and costs it charges and retains for itself or pays to its employees on loans secured by residential real estate. Specifically, Wells Fargo will continue to maintain its policy originally implemented in April 2011 of limiting pricing discretion above the par rate to 25 basis points, and prohibiting loan officers in its retail channel from sharing in any funds resulting from charging any amount above the par interest rate. Wells Fargo will also maintain its policy of prohibiting subsidies exceeding 50 basis points (subject to the exceptions provided in the May 2012 Retail Pricing Policy), and will implement a new policy requiring employees to document the reason for any subsidy. Before funding any loan, Wells Fargo will ensure it maintains documentation of compliance with the standards established to satisfy this Paragraph.

6. Wells Fargo will maintain specific standards, substantially similar to those detailed in its June 2012 "Wholesale Lending Pricing Policy" which are designed to avoid substantial variance in the total broker compensation paid to mortgage brokers on loans secured by residential real estate that are originated in Wells Fargo's name and that Wells Fargo underwrites, originates, or funds. For the duration of the Order, Wells Fargo will continue to maintain its policy of limiting total broker compensation to 3.25 % of the loan amount (inclusive of the 25 basis points bonus based on Wells Fargo's Performance Works Tier Adjuster). Wells

² No term of this Consent Order will be interpreted to prevent Wells Fargo from complying with any federal statutory or regulatory requirement concerning employee or mortgage broker compensation or loan pricing.

Fargo will also maintain its policy that lender-paid compensation to brokers (including payments by Wells Fargo to a broker made out of loan proceeds) is an agreed-upon amount per loan that does not vary by loan and can only be changed on a quarterly basis, and will also maintain its policy that total borrower-paid broker compensation may not exceed the amount that the broker could have received in total lender-paid compensation for the loan. Wells Fargo will ensure that compliance with these standards is a part of any agreement that provides for a mortgage broker to submit loan applications to Wells Fargo. To the extent the standards established to satisfy this Paragraph allow mortgage brokers to exercise discretion in the amount of the total broker compensation, mortgage brokers will provide a written explanation for borrower-paid total broker compensation that exceeds 2.5% of the loan amount. Before funding any loan, Wells Fargo will ensure it maintains documentation of compliance with the standards established to satisfy this Paragraph.

7. Wells Fargo will require, for all loans secured by residential real estate originated in its name, all employees and mortgage brokers to comply with the requirements established in Paragraphs 4-6. Wells Fargo will also require an appropriate manager or managers, under the supervision of a designated senior official of Wells Fargo, to review compliance with these requirements. Such review will occur no later than 30 days after closing. In the event that Wells Fargo receives or pays compensation in excess of what is permitted by the policies referenced in Paragraphs 4-6, an appropriate refund will be provided to the borrower in the form of a cash payment or credit to the borrower's account. All reviews will be documented, and such documentation will be retained for the term of the Order.

8. During the duration of the Order, Wells Fargo will continue to maintain a complaint resolution program to address consumer complaints alleging discrimination regarding

pricing of, or improper product placement with respect to, loans secured by residential real estate originated in Wells Fargo's name. Documentation regarding such complaint resolution program, including documentation of individual complaints and resolutions, if any, will be made available to the United States through the semi-annual reports referenced in Paragraph 11. A person will not be deemed ineligible for the complaint resolution program on the basis of having executed a Release, but there is no requirement under the Order that any complaint necessarily be resolved for or against Wells Fargo or that any particular form or amount of relief be provided to any complainant.

C. Monitoring Program

9. Wells Fargo currently employs a comprehensive fair lending monitoring program. Wells Fargo for the duration of the Order will maintain no less than its currently existing level of fair lending auditing and monitoring detailed in Wells Fargo's "Fair and Responsible Lending (FRL) Policy", dated February 28, 2011.

10. Within 30 days of the Effective Date of the Order, Wells Fargo will have in place a monitoring program designed to ensure compliance with the Order, which may be satisfied in whole or in part by its existing fair lending monitoring program. The program will be designed to monitor, for all loans secured by residential real estate originated in its name, for potential unexplained disparities by a borrower's race or national origin in the price charged for its residential loan products. At a minimum, Wells Fargo will monitor disparities in APRs, overages, subsidies and total broker compensation. The monitoring will include, but not be limited to, an analysis designed to detect significant unexplained disparities in the price charged for residential loan products by race and national origin with respect to all loans secured by residential real estate originated in Wells Fargo's name. Such analysis will be conducted at the national level and at a metropolitan statistical area (MSA) level for MSAs where Wells Fargo

annually originates at least 100 loans, including at least 30 loans to non-Hispanic whites and 30 loans to either African-Americans or Hispanics. This Consent Order does not require any product placement monitoring or review with regard to Wells Fargo conventional conforming³, conventional non conforming (jumbo)⁴, home equity loans or lines of credit, affordable housing⁵ or governmental loans. To the extent Wells Fargo begins originating residential mortgage loans that are not classified as conventional conforming, conventional nonconforming (jumbo), home equity loans or lines of credit, affordable housing loans or government loans during the term of this Order, within 30 days of offering any different type of residential mortgage loan originations, Wells Fargo will submit a proposed product placement monitoring program to the United States for its review and approval. If within 30 days of its receipt of the proposed product placement monitoring program the United States does not notify Wells Fargo in writing that it objects to the same, the proposed product placement monitoring program will be deemed approved. If the United States does not believe that the proposed product placement monitoring program is adequate, Wells Fargo and the United States will meet and confer to resolve the dispute. If the parties are unable to come to a resolution, the United States may ask the Court to resolve the parties' differences. Wells Fargo represents that it does not originate any residential

³ These loans are mortgages that are not obtained under a government program (such as FHA or VA), and that also satisfy the standard underwriting guidelines and loan amount limits set by the quasi-government agencies, Fannie Mae and Freddie Mac; these loans, therefore, can be sold to either of these two agencies in the secondary market.

⁴ These loans are not obtained under a government program and exceed the maximum conforming limits set by Fannie Mae and Freddie Mac. Such loans rely on the fully documented and verified financial capacity of the borrower as the primary means of repayment as well as a full analysis of the creditworthiness of the borrowers.

⁵ These loans are state, county and municipal bond and downpayment assistance programs and prime portfolio products designed to serve low to moderate income communities (which currently consists solely of Wells Fargo's Community Development Mortgage Program).

mortgage loans that would require product placement monitoring as of the date of filing of this Consent Order.

11. Wells Fargo's senior managers will conduct a semi-annual review of the monitoring programs described in this Order. A report on the review will be presented to the appropriate committee of Wells Fargo's Board of Directors for review and oversight not later than 90 days after the end of each semi-annual period.

a. In the event that any such review discloses statistically significant disparities at the 95% level either nationally or in any MSA, Wells Fargo will attempt to determine the reason(s) for those disparities and will promptly take corrective action to address significant disparities that were caused by a policy or practice of Wells Fargo, and not justified by legitimate business need. Corrective action will include, as warranted, financial remediation for borrowers, modifications to Wells Fargo's pricing policies and/or monitoring programs as appropriate, and education, discipline or termination of employee(s) or mortgage broker relationship(s). Wells Fargo will document all such disparities, determinations, and actions taken and will provide a summary of the quarterly reviews and any documentation and analysis relating thereto to the United States on a semi-annual basis.⁶

⁶ All material required by the Order to be sent to the United States will be sent by commercial overnight delivery service addressed as follows: Chief, Housing and Civil Enforcement Section, Civil Rights Division, U.S. Department of Justice, 1800 G Street NW, Suite 7002, Washington, DC 20006, Attn: DJ 188-69-27, or by facsimile to 202-514-1116. Wells Fargo may redact portions based on an assertion of attorney-client privilege from any materials required by the Order to be sent to the United States or to be subject to review by the United States, or, upon notice to the United States, it may withhold materials based on an assertion of attorney-client privilege applying to an entire document. If the United States raises any objections to Wells Fargo's claim of privilege, Wells Fargo and the United States will meet and confer to resolve the dispute. If the parties are unable to come to a resolution, the United States may ask this Court to determine whether the claim of privilege is legally correct.

b. In the event that any such review discloses statistically significant disparities with respect to any particular employee, branch office, or mortgage broker, Wells Fargo will require the employee, branch manager, or mortgage broker to explain the non-discriminatory reason(s) for those disparities. If there is no reasonable, nonracial explanation for the noted disparities, Wells Fargo will require the employee or branch manager to take prompt corrective action to address the disparities, and Wells Fargo will take prompt appropriate action with respect to mortgage brokers, up to and including termination of the broker relationship. In the event that Wells Fargo receives or pays compensation in excess of what is permitted by the policies referenced in Paragraphs 4-6, an appropriate refund will be provided to the borrower in the form of a cash payment or credit to the borrower's account.

If the United States raises any objections to Wells Fargo's determinations or remedial actions, Wells Fargo and the United States will meet and confer to consider appropriate steps to address the concerns raised by the United States' review. If the parties are unable to come to an agreement regarding such objections, any party may bring the dispute to this Court for resolution.

D. Borrower Disclosures

12. Wells Fargo will post and prominently display in each location where it receives loan applications a notice of nondiscrimination that satisfies the requirements of 24 C.F.R. Part 110.

E. Equal Credit Opportunity Training Program

13. Wells Fargo currently provides comprehensive fair lending training to management officials and employees. Within 90 days of the Effective Date of the Order, Wells

Fargo will provide access to a copy of the Order and the policies referenced therein to its management officials and employees who participate in taking applications for, originating, or pricing loans secured by residential real estate, including employees who have significant contact with or oversight of mortgage brokers, and employees responsible for conducting compliance monitoring as provided in Section IV.C of this Order. Wells Fargo will provide access to a copy of the Order and the policies referenced therein to each new management official or employee whose responsibilities include those set forth in the preceding sentence within 30 days of beginning his or her employment in that position.

14. Within 150 days of the Effective Date of the Order, and annually thereafter for the duration of the Order, Wells Fargo will provide equal credit opportunity training to its management officials and employees who participate in taking applications for, originating, or pricing loans secured by residential real estate, including employees who have significant contact with or oversight of mortgage brokers, and to employees responsible for conducting compliance monitoring as provided in Section IV.C of this Order. Wells Fargo will provide equal credit opportunity training to each new management official or employee whose responsibilities include those set forth in the preceding sentence within 90 days of beginning his or her employment in that position.

15. During the equal credit opportunity training, Wells Fargo will provide to each participant training on the terms of the Order, the policies referenced therein, the requirements of the FHA, the ECOA, and his or her responsibilities under each. The content of the training program required by this Paragraph will be approved in advance by the United States. Any expenses associated with this training program will be borne by Wells Fargo. At the conclusion of the training program, Wells Fargo will require each employee to successfully complete an

assessment which demonstrates that the employee was provided access to a copy of the Order and the policies referenced therein, understands his or her legal responsibility not to discriminate, and has completed the equal credit opportunity training.

16. Wells Fargo will offer all mortgage brokers who submit applications to Wells Fargo for loans secured by residential real estate the opportunity to undergo fair lending training similar to the training described in Paragraphs 14-15. Wells Fargo will retain for the duration of the Order documentation of any training conducted or requests for training made pursuant to this Paragraph, and make such documentation available to the United States upon request.

F. Satisfaction of United States' Claims for Monetary Relief

17. Wells Fargo will deposit in an interest-bearing escrow account the total sum of \$125 million to compensate for alleged monetary damages aggrieved persons nationwide who obtained a loan through Wells Fargo's wholesale channel may have suffered as a result of the alleged violations of the FHA and the ECOA (the "Settlement Fund"). Title to this account will specify that it is "for the benefit of allegedly aggrieved persons pursuant to Order of the Court in *United States v. Wells Fargo Bank, NA.*" Wells Fargo will provide written verification of the deposit to the United States within 5 days of the Effective Date of the Order. Any interest that accrues will become part of the Settlement Fund and be utilized and disposed of as set forth herein.

18. The United States has obtained from Wells Fargo information and data it reasonably believes will assist in identifying allegedly aggrieved persons and determining any damages. Such information and data will be used by the United States only for the law enforcement purposes of implementing this Order. The United States will, upon reasonable notice, be allowed access to mortgage loan files and borrower contact information contained in servicing records of Wells Fargo, Wells Fargo's parent, or any entity owned by Wells Fargo's

parent for loans Wells Fargo originated between 2004 and 2009 to verify the accuracy of the data provided and to otherwise identify persons entitled to the payments from the Settlement Fund.

19. Within 60 days of Effective Date of the Order, Wells Fargo will enter into a contract retaining a Settlement Administrator ("Administrator"), subject to approval by the United States, to conduct the activities set forth in the following Paragraphs. Wells Fargo will bear all costs and expenses of the Administrator, and Wells Fargo's contract with the Administrator will require that the Administrator comply with the provisions of the Order as applicable to the Administrator.⁷ The Administrator's contract will require the Administrator to work cooperatively with the United States in the conduct of its activities, including reporting regularly to and providing all reasonably requested information to the United States. Wells Fargo will allow the Administrator access to mortgage loan files and borrower contact information contained in servicing records of Wells Fargo, Wells Fargo's parent, or any entity owned by Wells Fargo's parent for loans Wells Fargo originated between 2004 and 2009 for the purposes of accomplishing its duties under the Order. The Administrator's contract will require the Administrator to comply with all confidentiality and privacy restrictions applicable to the party who supplied the information and data to the Administrator.

20. The United States will identify allegedly aggrieved persons in the wholesale channel with respect to its race and national origin discrimination claims within 45 days of the Effective Date of this Consent Order. The United States will provide a list of such allegedly

⁷ In the event the United States has reason to believe that the Administrator is not materially complying with the terms of its contract with Wells Fargo, the United States and Wells Fargo will meet and confer for the purpose of mutually agreeing upon a course of action to effect the Administrator's material compliance with its contract with Wells Fargo. In the event that the United States and Wells Fargo are unable to agree upon a course of action to effect the Administrator's material compliance with its contract with Wells Fargo, the parties may present the matter to the Court.

aggrieved persons to Wells Fargo and the Administrator, along with information on each individual last known address.

21. The Administrator's contract will require the Administrator to make its best efforts, using all reasonable methods, to locate each identified allegedly aggrieved person and obtain such information as the United States reasonably considers necessary from each. The Administrator's contract will require the Administrator to complete this responsibility within a period of 6 months from the date the United States provides the list described in Paragraph 20, subject to an extension of time as provided by Paragraphs 25 and 42. The Administrator's contract will require the Administrator, as part of its operation, to establish cost-free means for allegedly aggrieved persons to contact it, such as email and a toll-free telephone number.

22. The United States will specify the amount each allegedly aggrieved person identified in the list described in Paragraph 20 and located by the Administrator will receive from the Settlement Fund no later than 60 days after the Administrator's deadline for locating aggrieved persons in Paragraph 21 has passed. The United States will provide the compensation list to the Administrator. This list will direct no less than \$8 million to allegedly aggrieved persons who lived in Illinois at the time of origination to resolve Wells Fargo's pending litigation with the State of Illinois, and the Administrator's communications with such borrowers will refer to both the settlement of litigation by the United States and the State of Illinois. The list will also direct no less than \$2 million to allegedly aggrieved persons who lived in the City of Philadelphia at the time of loan origination to resolve the issues presented in the investigation that the Pennsylvania Human Relations Commission ("PHRC") sought to conduct against Wells Fargo, and the Administrator's communications with such borrowers will refer to both the settlement of the United States litigation and the settlement of the issues that the PHRC raised.

23. The Administrator's contract will require the Administrator to send releases, with language approved by the United States and Wells Fargo as set forth in Appendix A, to allegedly aggrieved persons (hereafter, "Releases"). After receipt of executed releases, the Administrator's contract will require the Administrator promptly to deliver payments to those persons in amounts determined by the United States as described in Paragraph 22. The Administrator's identification and payment responsibility may take place on a rolling basis with approval from the United States.

24. The Administrator's contract will require the Administrator to set forth reasonable deadlines, subject to approval of the United States, so that the compensation is distributed and checks are presented for payment or become void prior to the date that is 24 months from the date the Administrator begins to locate allegedly aggrieved persons pursuant to Paragraph 21.

25. Payments from the Settlement Fund to allegedly aggrieved persons will be subject to the following conditions, provided that the details in administration of the Settlement Fund set forth in Paragraphs 18-24, can be modified by agreement of the parties and without further Court approval:

(a) No allegedly aggrieved person will be paid any amount from the Settlement Fund until he or she has executed and delivered to Wells Fargo a Release; and

(b) The total amount paid by Wells Fargo collectively to the allegedly aggrieved persons will not exceed the amount of the Settlement Fund, including accrued interest.

26. All money set aside in the Settlement Fund for allegedly aggrieved persons who received nonprime loans from Wells Fargo's wholesale channel but not distributed to such persons, including accrued interest, within 24 months from the date the Administrator begins to locate allegedly aggrieved persons pursuant to Paragraph 21 will be allocated to the borrower

assistance program described in Section IV.G of this Order provided that there continues to be demand for direct borrower assistance in multiple geographic areas. If the borrower assistance program remains operational and there continues to be demand for direct borrower assistance in multiple geographic areas, then the United States will designate which geographic area should receive the remaining funds. Such decision will be made in consultation with Wells Fargo.

27. If the borrower assistance program is no longer operational or there is not sufficient demand for additional direct borrower assistance in any geographic area as of 24 months from the date the Administrator begins to locate allegedly aggrieved persons, then any remaining funds will be distributed to qualified organization(s) that provide services including credit and housing counseling (including assistance in obtaining loan modification and preventing foreclosure), legal representation of borrowers seeking to obtain a loan modification or to prevent foreclosure, financial literacy, and other related programs targeted at African-American and Hispanic potential and former homeowners in communities where the Complaint alleges significant discrimination occurred against African-American and Hispanic borrowers. Recipient(s) of such funds must not be related to Wells Fargo, Wells Fargo's parent, or any entity owned by Wells Fargo's parent. Wells Fargo will consult with and obtain the non-objection of the United States in selecting recipient(s) of these funds and the amount to be distributed to each, and the parties will obtain the Court's approval prior to distribution of any remainder of the Settlement Fund's assets. Wells Fargo will require each recipient to submit to Wells Fargo and the United States a detailed report on how funds are utilized within one year after the funds are distributed.

28. Wells Fargo will not be entitled to a set-off, or any other reduction, of the amount of payments to aggrieved persons because of any debts owed by the identified persons. Wells

Fargo also will not refuse to make a payment based on a release of legal claims or loan modification previously signed by any such aggrieved persons, including but not limited to, any release of claims signed in connection with the settlement reached between the United States and Wells Fargo & Company in February 2012 regarding mortgage loan servicing and foreclosure abuses.

G. Borrower Assistance

29. Within 60 days after the entry of this Consent Order, Wells Fargo will institute a new homebuyer assistance program to be implemented in jurisdictions within the following Metropolitan Statistical Areas ("MSAs") (as defined by 2005 U.S. Census Bureau data): Washington-Arlington-Alexandria, DC-VA-MD-WV; Chicago-Naperville-Joliet, IL-IN-WI; Philadelphia-Camden-Wilmington, PA-NJ-DE-MD; San Francisco-Oakland-Fremont, CA; New York-Northern New Jersey-Long Island, NY-NJ-PA; Cleveland-Elyria-Mentor, OH; and Riverside-San Bernardino-Ontario, CA. Wells Fargo will also implement this new homebuyer assistance program in the City of Baltimore, Maryland. For purposes of this Consent Order, this program is referred to hereinafter as the "Wells Fargo Borrower Assistance Program."

30. Of all funds expended on the Wells Fargo Borrower Assistance Program, at least \$50 million will be directly funded by Wells Fargo Bank, N.A. This amount, which is separate from and in addition to the \$125 million that will be set aside pursuant to Paragraph 17 for compensation of allegedly aggrieved persons who received nonprime loans from Wells Fargo's wholesale channel and from any rebates described in Paragraph 37 will be placed directly into an escrow account or accounts (which may be created for each geographic area) within 30 days of the entry of this Consent Order. Within 60 days of the entry of this Consent Order, the Parties will agree to the allocation of this \$50 million among the seven MSAs and the City of Baltimore

listed in Paragraph 29 above, and on the selected geographic areas within the MSAs where the Borrower Assistance Program will operate. For purposes of this Consent Order, these grants are referred to herein as the "Borrower Assistance Grants", and may be in any amount up to but not exceeding \$15,000. Each Borrower Assistance Grant will be in the form of a 0% interest loan, 20% of which will be forgivable each year for five years. The prorated balance due is repayable if the property is sold, refinanced, or if there is a transfer of title or foreclosure within the first five years, subject to a limited exception for refinancing (with no cash out to the borrower) of the first mortgage to a lower interest rate due to death or divorce where one of the original borrowers remains an owner of the property. Any recaptured funds will be returned to the Borrower Assistance Grant pool of funds and made available for assistance to other qualified borrowers. Each Borrower Assistance Grant must be used for downpayment assistance, closing cost assistance, and/or, subject to the conditions of this paragraph, for home renovation financing. Borrower Assistance Grants may be used for home renovation financing only in connection with the Federal Housing Administration (FHA)'s 203k program and conventional renovation loans, and must be in connection with the purchase of a home. Wells Fargo may modify or define additional terms and requirements for the downpayment assistance as necessary to implement the Wells Fargo Borrower Assistance Program that are consistent with the terms of this Consent Order, subject to approval by the United States.

31. Wells Fargo may choose to expend additional funds in connection with the Wells Fargo Borrower Assistance Program, such as providing homebuyer education and counseling; however, at least \$50 million must be spent directly on downpayment assistance, closing cost assistance, and/or home renovation financing in connection with the purchase of a home. Any homebuyer education or counseling must be conducted by a HUD-approved counseling agency.

Wells Fargo may define additional procedures and requirements for homebuyer education and counseling, subject to approval by the United States.

32. The Borrower Assistance Grants may be administered by an independent third-party nonprofit agency selected by Wells Fargo, subject to approval by the United States. This independent third-party nonprofit agency may work with local nonprofit agencies in each of the MSAs or cities. Borrower Assistance Grants will be made to applicants earning less than 120% of Area Median Income (as defined by 2012 Department of Housing and Urban Development guidelines). It is not necessary that individuals receiving Borrower Assistance Grants be first-time homeowners, although the grants must be used for a primary owner-occupied residence of 1-4 units in the areas designated by the parties, and may not include manufactured housing. If the borrower currently owns a home, it must be sold prior to closing on the property purchased using a Borrower Assistance Grant.

33. Wells Fargo may not require that properties purchased with the help of Borrower Assistance Grants be financed by Wells Fargo Bank, NA or any affiliated lender; however, Wells Fargo Bank, N.A., is not prohibited from financing properties purchased with the help of Borrower Assistance Grants. With respect to the first mortgage, Fannie Mae, Freddie Mac, FHA, VA, conventional renovation, conventional portfolio products, and other CRA affordable lending program guidelines will apply. For Conventional Portfolio products or other CRA affordable lending programs, a reasonable combined loan-to-value ratio will be set by Wells Fargo. The total of all financing cannot result in cash back to the borrower.

34. If the borrower has liquid reserves (cash or funds in accounts readily able to be converted to cash funds without penalty) greater than 6 months of principal, interest, taxes and

insurance, or \$7,500, whichever is lower, such excess funds will be required to go toward a down payment or closing costs before any Borrower Assistance Grants are applied.

35. Wells Fargo will provide targeted marketing regarding Borrower Assistance Grants in communities including census tracts that are greater than 40% African-American (as identified using data from the 2010 Census) or Hispanic, and in communities including census tracts with average income levels of at or below 120% of Area Median Income. Borrower Assistance Grants may be made to individuals of any race or nationality provided the borrower meets the income requirements set forth above. Wells Fargo will engage in targeted marketing which will include an event in each designated MSA, information to individuals interested in receiving Borrower Assistance Grants, and media announcements in outlets serving the communities in the designated census tracts. At least one such event must take place in each designated MSA within one year of the Effective Date of this Consent Order.

36. All Borrower Assistance Grants must be distributed within two years of the date of entry of this Consent Order. Any funds recaptured pursuant to Paragraph 30 must be re-distributed within one year of recapture. Any funds allocated to the borrower assistance program from the Settlement Fund pursuant to Paragraph 26 will be redistributed within one year from the time such funds are allocated to the borrower assistance program. In the event there is not sufficient demand for the Wells Fargo Borrower Assistance Program and there are remaining funds, the provisions of Paragraph 27 setting out procedures for distribution to qualified organizations will apply to such remaining funds.

H. Internal Review Process Regarding Nonprime Loans from Wells Fargo's Retail Division

37. In addition to compensating allegedly aggrieved persons who received Wells Fargo loans from independent mortgage brokers, Wells Fargo agrees to undertake an internal

review, using an agreed upon statistical model and process, to determine whether there exist African-American and/or Hispanic borrowers who received nonprime Wells Fargo loans from Wells Fargo's retail channel who, based on the results of the statistical model, arguably might have qualified for prime loans from Wells Fargo's retail channel. Wells Fargo will provide a list of any such borrowers identified by the model to the United States no later than 45 days after the Effective Date of this Consent Order. Wells Fargo will provide cash rebates to such borrowers in an amount commensurate with the amounts paid to borrowers who received nonprime Wells Fargo loans from Wells Fargo's wholesale division. Wells Fargo may not use funds from the Settlement Fund or the Borrower Assistance Program to pay for the rebates. To be eligible for the rebate, the borrower must execute and deliver to Wells Fargo a Release similar in form to that contained in Exhibit A. The rules and procedures governing the rebates will be the same as set forth in Paragraphs 18-24, 26-28, and 36, above.

V. EVALUATING AND MONITORING COMPLIANCE

38. For the duration of the Order, Wells Fargo will retain all records relating to its obligations hereunder as well as its compliance activities as set forth herein. The United States will have the right to review and copy such records upon request, including loan files and electronic data for loans secured by residential real estate made during the duration of the Order.

39. Wells Fargo will provide to the United States the data on its lending that is submitted to the Federal Financial Institutions Examination Council (FFIEC) pursuant to the Home Mortgage Disclosure Act and the Community Reinvestment Act. The data will be provided in the same format in which it is presented to the FFIEC, within 30 days of its submission to the FFIEC each year, for the duration of the Order, including the record layout.

40. In addition to the submission of any other plans or reports specified in the Order, Wells Fargo will submit semi-annual reports to the United States on its progress in completing the requirements of the Order. Each such report will provide a complete account of Wells Fargo's actions to comply with each requirement of the Order during the previous 6 months, an objective assessment of the extent to which each quantifiable obligation was met, an explanation of why any particular component fell short of meeting its goal for the previous 6 months, and any recommendations for additional actions to achieve the goals of the Order. Each such report will detail any changes made to the May 2012 Wells Fargo Home Mortgage Retail Pricing Policy and the June 2012 Wholesale Lending Pricing Policy during the previous 6 months. Wells Fargo will submit its first report no later than 180 days after the Effective Date of the Order, and every 180 days thereafter for so long as the Order is in effect. In addition, if applicable, Wells Fargo will attach to the semi-annual reports representative copies of training materials disseminated pursuant to the Order.

VI. ADMINISTRATION

41. The Order will terminate 3 months after the submission of Wells Fargo's sixth semi-annual report due under Paragraph 11 to the United States, except that if all the actions required by Paragraphs 17, 29-30, and 37 have not been completed, Paragraphs 17, 29-30, and 37 and this section will continue in effect for an additional 6 months. Notwithstanding the above, the Order may be extended further upon motion of the United States to the Court, for good cause shown.

42. Any time limits for performance fixed by the Order may be extended by mutual written agreement of the parties. Except as provided by Paragraph 25, other modifications to the Order may be made only upon approval of the Court, upon motion by either party. The parties

recognize that there may be changes in relevant and material factual circumstances during the duration of the Order which may impact the accomplishment of its goals. The parties agree to work cooperatively to discuss and attempt to agree upon any proposed modifications to the Order resulting therefrom.

43. The Order will be binding on Wells Fargo, including all its officers, employees, agents, assignees, and successors in interest, and all those in active concert or participation with any of them. The Order will consider loans originated by a mortgage joint venture operated by Wells Fargo, which are also underwritten and table-funded by Wells Fargo, to be loans originated by employees of Wells Fargo. In the event Wells Fargo seeks to transfer or assign all or part of its operations, and the successor or assign intends on carrying on the same or similar use, as a condition of sale, Wells Fargo will obtain the written accession of the successor or assign to any obligations remaining under the Order for its remaining term; however, if Wells Fargo terminates its ownership interest in the joint venture and is no longer involved in the ownership or operation of the joint venture, Wells Fargo's joint venture partners are not subject to the terms of this Order for loans originated after the termination of Wells Fargo's ownership interest.

44. Nothing in the Order will excuse Wells Fargo's compliance with any currently or subsequently effective provision of law or order of a regulator with authority over Wells Fargo that imposes additional obligations on Wells Fargo.

45. The parties agree that, as of the date of entry of the Order, litigation is not "reasonably foreseeable" concerning the matters described in the Order. To the extent that either party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in the Order, the party is no longer

required to maintain such a litigation hold, with the exception of documents, electronically-stored information, or other things relating to loans originated by Wells Fargo between January 1, 2004, and December 31, 2009.

46. In the event that any disputes arise about the interpretation of or compliance with the terms of the Order, the parties will endeavor in good faith to resolve any such dispute between themselves before bringing it to this Court for resolution. If the United States believes that Wells Fargo has violated any provision of the Order, it will provide Wells Fargo written notice thereof and allow 30 days to resolve the alleged violation before presenting the matter to this Court. In the event of either a failure by Wells Fargo to perform in a timely manner any act required by the Order or an act by Wells Fargo in violation of any provision hereof, the United States may move this Court to impose any remedy authorized by law or equity.

47. Wells Fargo's compliance with Paragraphs 17, 29-30, and 37 of this Order shall fully and finally resolve all claims by the United States of discrimination, including under the FHA and ECOA, that are raised in the Complaint's allegations of a pattern or practice, in loans originated between January 1, 2004 and December 31, 2009 by the Wells Fargo, of discrimination against African-American and Hispanic borrowers based on racial and national origin disparities in loan pricing and/or product placement, including without limitation all claims for equitable relief and monetary damages and penalties arising from those claims, as well as any claims under any other legal theory based on the same allegations of discriminatory conduct addressed in the Complaint. The Order does not release claims for practices not addressed in the Complaint's allegations, including claims that may be held or are currently under investigation by any federal agency, or any claims that may be pursued for actions that may be taken by any executive agency established by 12 U.S.C. § 5491 or the appropriate

Federal Banking Agency (FBA), as defined in 12 U.S.C. § 1813(q), against Wells Fargo, any of its affiliated entities, and/or any institution-affiliated party of Wells Fargo, as defined in 12 U.S.C. § 1813(u), pursuant to 12 U.S.C. § 1818 or any other statute or regulation. The Order does not resolve and release claims other than claims for discrimination.

48. Each party to the Order will bear its own costs and attorneys' fees associated with this litigation.

49. The Court will retain jurisdiction for the duration of the Order to enforce the terms of the Order, after which time the case will be dismissed with prejudice.

SO ORDERED, this ____ day of _____, 2012.

UNITED STATES DISTRICT JUDGE

The undersigned hereby apply for and consent to the entry of the Order:

For Plaintiff United States of America:


Dated: July 12, 2012

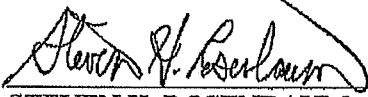
Respectfully submitted,

ERIC H. HOLDER, JR.
Attorney General

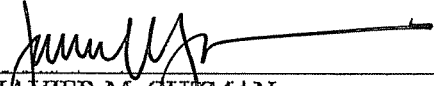
RONALD C. MACHEN JR.
D.C. Bar # 447889
United States Attorney
District of Columbia

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division


DANIEL F. VAN HORN
D.C. Bar # 924092
Acting Chief, Civil Division

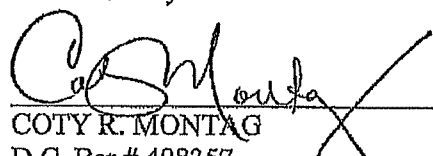

STEVEN H. ROSENBAUM
D.C. Bar # 417585
Chief
Housing and Civil Enforcement Section
Civil Rights Division


TOM M. SEWARD
Deputy Chief


JAVIER M. GUZMAN
D.C. Bar # 462679
Assistant United States Attorney
555 Fourth Street, NW
Washington, DC 20530
Phone: (202) 616-1761
Fax: (202) 514-8780
Javier.Guzman2@usdoj.gov


ELIZABETH PARR HECKER
Trial Attorney


HOLLY C. LINCOLN
Trial Attorney

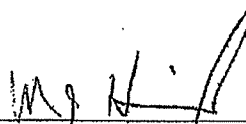

COTY R. MONTAG
D.C. Bar # 498357
Trial Attorney

Housing and Civil Enforcement Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue NW
Northwestern Building, 7th Floor
Washington, DC 20530
Phone: (202) 305-0122
Fax: (202) 514-1116
Coty.Montag@usdoj.gov

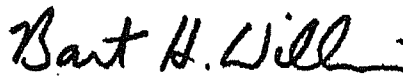
For Wells Fargo Bank, NA:

Dated: July 11, 2012

Respectfully submitted,



MICHAEL J. HEID
Executive Vice President
Wells Fargo Bank, NA and
President, Wells Fargo Home Mortgage



BART H. WILLIAMS
Munger, Tolles & Olson LLP
355 So. Grand Avenue, 35th Floor
Los Angeles, CA 90071
Phone (213) 683-9295
Fax: (213) 687-3702
Bart.Williams@mto.com
Counsel for Wells Fargo Bank, NA

APPENDIX A

Release

In consideration for the parties' agreement to the terms of the Consent Order entered in United States v. Wells Fargo Bank, NA, (D.D.C.), and Wells Fargo's payment to me of \$ _____, pursuant to the Consent Order, I hereby release and forever discharge all claims, accruing prior to the entry of the Consent Order, related to the allegations of housing and credit discrimination in the origination of loans secured by residential real estate at issue in the litigation referenced above, that I may have against Wells Fargo, all related entities, parents, predecessors, successors, subsidiaries, and affiliates, and all of their past and present directors, officers, agents, managers, supervisors, shareholders, and employees and their heirs, executors, administrators, successors, or assigns.

Executed this ____ day of _____, ____.

Signature

Print Name

Address